dependents; to the Committee on Armed Services.

By Mr. MACK of Washington:

H. R. 3395. A bill to provide assistance for local-school agencies in providing educational opportunities for children on Federal reservations or in defense areas, and for other purposes; to the Committee on Education and Labor.

By Mr. MURRAY of Wisconsin.

H. R. 3396. A bill to amend the law relating to timber operations on the Menominee Indian Reservation in Wisconsin; to the Committee on Public Lands.

By Mr. RANKIN (by request):

H. R. 3397. A bill to provide that all employees of the Veterans' Canteen Service shall be paid from funds of the service, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SHEPPARD:

H. R. 3398. A bill to confirm and establish the titles of the State to lands beneath navigable waters within State boundaries and natural resources within such lands and waters and to provide for the use and control of said lands and resources; to the Committee on the Judiciary.

H. R. 3399. A bill to amend the Reconstruction Finance Corporation Act so as to more fully utilize the productive facilities of small-business concerns in the interest of national defense, and for other purposes; to the Committee on Banking and Currency.

By Mr. TOLLEFSON:

H. R. 3400. A bill for the purpose of erecting adequate Federal office and postal facilities in Tacoma, Wash.; to the Committee on Public Works.

By Mr. WOODRUFF:

H. R. 3401. A bill to include the Virgin Islands in certain titles of the Social Security Act; to the Committee on Ways and Means.

By Mr. YATES:

H. R. 3402. A bill to amend section II of the act entitled "an act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914; to the Committee on the Judiciary.

By Mr. FARRINGTON:

H. J. Res. 187. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. COOLEY:

H. J. Res. 188. Joint resolution to provide for the coinage of a medal in recognition of the distinguished services of Vice President ALBEN W. BARKLEY; to the Committee on Banking and Currency.

By Mr. GREGORY:

H. J. Res. 189. Joint resolution to authorize the issuance of a special 3-cent postage stamp commemorative of the Tennessee Valley Authority; to the Committee on Post Office and Civil Service.

By Mr. MULTER:

H. J. Res. 190. Joint resolution proposing an amendment to the Constitution of the United States with respect to the term of office and qualifications of Members of the House of Representatives; to the Committee on the Judiciary.

By Mr. AUCHINCLOSS:

H. Res. 140. Resolution to pay a gratuity to Annie O. Brown; to the Committee on House Administration.

By Mr. CHUDOFF:

H. Res. 141. Resolution to authorize the Committee on Interstate and Foreign Commerce to investigate and study public-opinion polls; to the Committee on Rules.

By Mr. RIVERS:

H. Res. 142. Resolution to authorize the Committee on Public Lands to investigate and study the circumstances surrounding the making of contracts and leases relating to golf courses in the District of Columbia; to the Committee on Rules.

By Mr. SMITH of Wisconsin:

H. Res. 143. Resolution to authorize the Committee on Armed Services to investigate and study the facts and circumstances relating to the obtaining of evidence in certain war-crime cases in Germany; to the Committee on Rules.

By Mrs. NORTON:

H. Res. 144. Resolution for the relief of Jean Ness; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred, as follows:

By Mr. BROWN of Ohio:

H. R. 3403. A bill for the relief of John B. H. Waring; to the Committee on the Judiciary.

By Mr. CELLER:

H. R. 3404. A bill for the relief of Thomas F. Dugan; to the Committee on the Judiciary.

By Mr. COOLEY:

H. R. 3405. A bill for the relief of Vivian Newell Price; to the Committee on the Judiciary.

By Mr. FARRINGTON:

H. R. 3406. A bill for the relief of Leslie Fullard-Leo and Ellen Fullard-Leo; to the Committee on the Judiciary.

By Mr. HAVENNER:

H. R. 3407. A bill for the relief of Mrs. Mary Ann Oliver; to the Committee on the Judiciary.

By Mr. JENNINGS:

H. R. 3408. A bill for the relief of Opal Hayes and D. A. Hayes; to the Committee on the Judiciary.

By Mr. PETERSON:

H. R. 3409. A bill to provide for the advancement of James Edgar Davis on the emergency officers' retired list of the Army; to the Committee on Armed Services.

By Mr. RABAUT:

H. R. 3410. A bill for the relief of Peter Kristian Kristensen; to the Committee on the Judiciary.

By Mr. SOMERS:

H. R. 3411. A bill for the relief of George Koniditsiotis; to the Committee on the Judiciary.

By Mr. TOLLEFSON:

H. R. 3412. A bill for the relief of N. H. Kelley, Bernice Kelley, Clyde D. Farquhar, and Gladys Farquhar; to the Committee on the Judiciary.

By Mr. WIGGLESWORTH:

H. R. 3413. A bill for the relief of Alfred Baumgarts; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

185. By Mr. CASE of South Dakota: Memorial of the State Legislature of State of South Dakota, memorializing the Congress of the United States not to enact legislation permitting the coloring of oleomargarine; to the Committee on Agriculture.

186. Also, memorial of the State Legislature of the State of South Dakota, memorializing the Congress of the United States to enact legislation which will assure the payment of prices for farm products at not less than 100 percent of parity; to the Committee on Agriculture.

187. Also, petition of Ralph R. Chapman, correspondent, and 26 other members of Local Branch 1225, National Association of Letter Carriers, Rapid City, S. Dak., veterans of World War II, requesting enactment of legislation to correct injustice of Public Law No. 134, enacted in July 1945; to the Committee on Post Office and Civil Service.

188. By Mr. TOWE: Petition of Hudson County Federation of Holy Name Societies, Jersey City, N. J., protesting against the outrageous procedure employed in the alleged trial of His Eminence Josef Cardinal Mindszenty; to the Committee on Foreign Affairs.

189. By Mr. WOLCOTT: Resolution of the Michigan State Legislature, protesting to the world the ruthless and unjust exercise of autocratic power in connection with the trial and conviction of Josef Cardinal Mindszenty; to the Committee on Foreign Affairs.

190. By the SPEAKER: Petition of Associated Townsend Clubs of Pinellas County, Clearwater, Fla., requesting enactment of H. R. 2135 and H. R. 2136, Eighty-first Congress, known as the Townsend plan; to the Committee on Ways and Means.

SENATE

THURSDAY, MARCH 10, 1949

(Legislative day of Monday, February 21, 1949)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

God of our fathers, to whose kingdom of justice and love the future belongs: It is Thy might which hath made and preserved us a Nation. In the dedication of this quiet moment, perplexed by rushing cares, we would still all other voices that Thine may be heard.

We long to see the genuine spirit of brotherhood regnant in our common life—cleansing it from all that is unwholesome, sweetening every human relationship, composing the differences of class with class and nation with nation, delivering from the lust for gain or power or privilege which would narrow our loyalties and harden our sympathies. To this end we pray that Thou wouldst hear us for the outward growth of Thy kingdom in the world, and for its inward growth in our own hearts and consciences. Through Jesus Christ our Lord. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 1741. An act to authorize the establishment of a joint long-range proving ground for guided missiles, and for other purposes;

H. R. 2546. An act to authorize the Secretary of the Air Force to establish land-based air warning and control installations for the national security, and for other purposes; and

H. R. 3333. An act making appropriations for the Department of Labor, the Federal Security Agency, and related independent agencies, for the fiscal year ending June 30, 1950, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated:

H. R. 1741. An act to authorize the establishment of a joint long-range proving ground for guided missiles, and for other purposes; and

H. R. 2546. An act to authorize the Secretary of the Air Force to establish land-based air warning and control installations for the national security, and for other purposes; to the Committee on Armed Services.

H. R. 3333. An act making appropriations for the Department of Labor, the Federal Security Agency, and related independent agencies, for the fiscal year ending June 30, 1950, and for other purposes; to the Committee on Appropriations.

EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT laid before the Senate the following communications and letters, which were referred as indicated:

REVISED ESTIMATE, FEDERAL SECURITY AGENCY
(S. Doc. No. —)

A communication from the President of the United States, transmitting a revised estimate of appropriation for the Federal Security Agency, involving an increase of $9,013,000, fiscal year 1949 (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMISSION ON ORGANIZATION OF EXECUTIVE BRANCH OF GOVERNMENT

A letter from the Chairman of the Commission on Organization of the Executive Branch of the Government, transmitting, pursuant to law, a report on the Treasury Department (with an accompanying report); to the Committee on Expenditures in the Executive Departments.

A letter from the Chairman of the Commission on Organization of the Executive Branch of the Government, transmitting, pursuant to law, a report on Fiscal, Budgeting, and Accounting Activities (appendix F) (with an accompanying report); to the Committee on Expenditures in the Executive Departments.

A letter from the Chairman of the Commission on Organization of the Executive Branch of the Government, transmitting, pursuant to law, a report on Transportation and the National Government (vol. I, Proposed Revision of National Transportation Policy and Administrative Organization) (with an accompanying report); to the Committee on Expenditures in the Executive Departments.

A letter from the Chairman of the Commission on Organization of the Executive Branch of the Government, transmitting, pursuant to law, a report on Transportation and the National Government (vol. II, the Provision of Facilities and Regulation of Transport Enterprises) (with an accompanying report); to the Committee on Expenditures in the Executive Departments.

CALL OF THE ROLL

Mr. LUCAS. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Anderson	Chapman	Ellender
Baldwin	Chavez	Ferguson
Brewster	Connally	Flanders
Bricker	Cordon	Frear
Bridges	Donnell	Fulbright
Butler	Douglas	George
Byrd	Downey	Gillette
Cain	Eastland	Green
Capehart	Ecton	Gurney
Hayden	McCarran	Russell
Hendrickson	McCarthy	Saltonstall
Hickenlooper	McFarland	Schoeppel
Hill	McGrath	Smith, Maine
Hoey	McKellar	Sparkman
Holland	McMahon	Stennis
Hunt	Magnuson	Taft
Ives	Malone	Taylor
Jenner	Maybank	Thomas, Okla.
Johnson, Colo.	Miller	Thomas, Utah
Johnson, Tex.	Millikin	Thye
Johnston, S. C.	Morse	Tobey
Kefauver	Mundt	Tydings
Kem	Murray	Vandenberg
Kerr	Myers	Watkins
Kilgore	Neely	Wherry
Knowland	O'Conor	Wiley
Langer	O'Mahoney	Williams
Lodge	Pepper	Withers
Long	Reed	Young
Lucas	Robertson	

Mr. MYERS. I announce that the Senator from Minnesota [Mr. HUMPHREY] is absent by leave of the Senate because of illness in his family.

The Senator from Arkansas [Mr. MCCLELLAN] is absent by leave of the Senate.

The Senator from New York [Mr. WAGNER] is necessarily absent.

Mr. SALTONSTALL. I announce that the Senator from Vermont [Mr. AIKEN] and the Senator from Pennsylvania [Mr. MARTIN] are absent by leave of the Senate.

The Senator from New Jersey [Mr. SMITH] is absent because of illness.

The VICE PRESIDENT. Eighty-nine Senators having answered to their names, a quorum is present.

AMENDMENT OF CLOTURE RULE

The Senate resumed the consideration of the motion of Mr. LUCAS to proceed to the consideration of Senate Resolution 15, amending the so-called cloture rule of the Senate.

Mr. PEPPER obtained the floor.

The VICE PRESIDENT. Will the Senator from Florida yield so the Chair may ask the Senator from Illinois [Mr. LUCAS] if he proposes to make a request similar to that he has previously made for unanimous consent respecting the insertion in the RECORD at this time of routine matters?

Mr. PEPPER. I yield for that purpose, Mr. President.

Mr. LUCAS. Mr. President, I do not care to make that request.

The VICE PRESIDENT. The Senator from Florida has the floor.

Mr. PEPPER. Mr. President, I cannot escape the conviction that there are involved in this debate——

Mr. WHERRY. Mr. President, will the Senator from Florida yield so that I may ask unanimous consent to make an insertion in the RECORD?

Mr. PEPPER. I shall be glad to do so, Mr. President, if I may without impairing my status as being engaged in making my first speech upon the pending question.

Mr. WHERRY. I suggest to the majority leader that, if it meets with his approval, Senators be given the same privilege as has been afforded for several days past, to make insertions in the RECORD, at this time, at the beginning of the day's session.

The VICE PRESIDENT. The Senator from Florida has really not started his speech. If it is agreeable to the Senate, the Senator from Illinois——

Mr. WHERRY. Mr. President, I withdraw the request.

The VICE PRESIDENT. The Senator from Florida may proceed.

Mr. PEPPER. Mr. President, I had begun by saying that I cannot escape the conviction that there are involved in this debate crucial and vital issues. I deem those issues to be, first, the supremacy of the Constitution of the United States; second, the power of the Government of the United States to function; and, third, the duty of the Government of the United States to protect and further the principles of democracy in the United States and in the world. I say the supremacy of the Constitution of the United States is involved, because the situation in the Senate today contravenes the Constitution of the United States, and denies to the Senate of the United States the privilege of discharging its constitutional duty to legislate, for in Article I of the Constitution is to be found the following provision:

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Now, Mr. President, what is the legislative power? It is the power to consider legislation. It is the power to function. It is the power of its committees to deliberate on legislative proposals, to report them to the Senate, the power of the Senate to receive them, to regard them, to put them upon its calendar, to deliberate upon them, to adopt them, and at some reasonable time, Mr. President, to come to a decision with respect to such legislative proposals. Anything which denies to the Senate of the United States the power to function in one of those essential respects at any essential step from the initiation to the conclusion of a legislative proposal denies to the United States Senate its constitutional power and prerogative to legislate for the United States of America.

Mr. President, let me in the very beginning of my remarks say that if the Government of the United States was ever a confederacy it is not now a confederacy of sovereign States. The Government of the United States is the government of a nation. I am a Senator of the United States, a nation, a sovereignty in itself. The American flag floats over a nation. Thank God, it is a united nation among the political units of the world.

We all know, of course, the evolution of our state, our Nation, our national sovereignty. We know how it had its beginnings, of course, but, Mr. President, the third word in the preamble to the Federal Constitution is "people".

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty—

To whom? To the States? To the governors of the States? To the State legislatures? To the State supreme courts? No; "to ourselves," "the people," the Constitution says. And to whom else—the successors of the State sovereignties? No, Mr. President—to "our posterity."

This is a nation of people, Mr. President, not a nation of some political concepts that may be called sovereign states—

and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

For a nation, the United States of America.

Article I, section 1, of the Constitution reads as follows:

All legislative powers—

Legislative powers for whom, Mr. President? For the States? No; for the Government of the United States, which was breathed into being in the Constitution in 1787, and came into an effective status in the inception of this new thing upon the face of the earth, the Government of the United States, in 1789.

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Mr. President, we derive our very compensation from the Government of the United States. The check which we receive for our services comes out of the Federal Treasury, and the funds to provide the sources of that compensation come from taxes levied by the Government of the United States.

The President is not the chairman of a board of directors. He is not the chairman of a conference of States. He is the Chief Executive and the principal magistrate of the most supreme power on the face of the earth, the United States of America, a nation, not a confederation. I thank God that I have the privilege to be a small part of the greatest unit of political character on earth, the United States of America.

This honored body has been vested with the power to be a part of the legislative function of the Government of the United States. Of course, our membership comes from the States, just as the membership of the House of Representatives comes from the districts. But, Mr. President, I do not represent the Governor of Florida. I do not represent the Legislature of Florida. I do not represent the Supreme Court of Florida. I do not hold my commission from them. I was not appointed by the Governor of Florida. I was not designated by my legislature or by the supreme court of my State. My certificate, on file in the office of the Secretary of the Senate, attests that I was elected by the people of Florida in an election.

So we are members of a government. This is not a part of some loose confederation which might have existed at some previous period of our history. The constituency of the Senate, of course, is founded upon a geographical entity, which is the State; but I say again that if there ever was any concept that a Senator represented a State in its official and sovereign capacity, that concept was certainly altered when the method of selection of Senators was changed from appointment by legislatures to election by the people. I regard a Senator as simply a member of a bicameral legislature, the Senate and the House of Representatives, in which is vested the legislative power of the Government of the United States.

Whatever thwarts the exercise of its legislative power by the Senate of the United States is a denial of the Constitution of the United States to that extent. There have been times in the past when an arrogant monarch actually barred the doors of a legislative assembly to the members of the assembly. That, of course, would be a denial of the legislative power.

Let us suppose that the honorable and honored minority in the Senate, opposing even a consideration of a rule change recommended by the Committee on Rules and Administration of this body, were to post themselves around the doors of this Chamber and say, "We forbid entry to every Senator who does not share our sentiments, every Senator who would organize the Senate into a legislative body, every Senator who would insist upon a calendar of Senate business, every Senator who would insist upon debate but eventually upon a decision and a roll call. We deny you access to this Chamber because we do not like what you might do." Of course, that would be unthinkable; but would it not be thwarting the legislative power and the duty of the Senate to legislate, to organize itself into a legislative assembly, and to function as such?

The counterpart of that is what is being done here today. It was done all last week. It will be done, undoubtedly, according to previous announcements, until in some manner the obstruction—not the debate—may be brought to a close.

Mr. LONG. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from Louisiana?

Mr. PEPPER. If the Senator will permit me, I should like to make my direct address, at the conclusion of which I shall be very glad to yield to Senators.

The VICE PRESIDENT. The Senator from Florida declines to yield.

Mr. PEPPER. Mr. President, I say that that is the counterpart of what is being done here now. Let us suppose that we gathered in this Chamber at noon of this day, and the Presiding Officer took his seat. Suppose he should deny recognition to any Senator who might rise to his feet. The Senate rules provide that every Senator must address the Chair and be recognized before he can utter a word. Suppose the Chair should say, "The Chair will not recognize any Senator who rises to his feet." The able leader of the majority might rise and say, "Mr. President—" and the Chair would say nothing. Again the able leader would insist, "Mr. President—" and the Chair would refuse to hear him, to recognize him. The minority leader might rise and say, "Mr. President—" and the Chair would refuse to call his name, to give him the floor. Senator after Senator might rise and seek recognition by the Chair. One after another they might be refused. We would sit here, a helpless body of men gathered together as a Senate, but unable to function because the Chair would not perform his part in the process and give the required recognition to Senators who aspired to carry on the business of the Senate.

That would shock the sensibilities of every Senator and every citizen; yet in principle, is not that what is being done now? We are being denied the power to change our own rules, to fix our own calendar, to determine what shall be the business of the Senate. It might as well be a bill of legislative character that might be thwarted by the minority in this case, which is not satisfied to rest the issue upon a vote of Senators, but which says to its fellow Senators, "We deny you the power to change the rules of the Senate, or even to consider a change." In numerous other cases the denial has been of the privilege to consider proposed legislation.

So I say, Mr. President, that if Senators were to range themselves around the doors, or if the Presiding Officer were to fail to recognize any Senator, that would be a denial of the duty of this body to function.

Let me give another case. Suppose Members gathered in the well of the Senate and made such loud noises that the business of the Senate could not be carried on, or distributed themselves over the Chamber and so conducted themselves that business could not be transacted. Would anyone deny that that would be something which would strike at the very quality of this body as a legislative assembly, something which would eventually have to be met and mastered before democracy could function and this assembly could discharge its duty? Of course not. None of the honored Members of this body could, in the remotest imaginative contemplation, be a party to such conduct. Yet, Mr. President, would that, in essential character be different from what they do now in denying to the Senate the right to consider a proposed rule change recommended by a standing committee of the Senate by a vote of 10 to 3 of the 13 members of the Committee on Rules and Administration, after public hearing and deliberation?

So, Mr. President, I say that whatever denies to the Senate the power to function in the exercise of its legislative power, contravenes and thwarts and denies and obstructs the functioning of the Constitution of the United States.

Let me put another case: Not far away from us is the Supreme Court of the United States. It has a membership of nine justices. They, too, have a calendar. They have an obligation under the Constitution, because the Constitution provides that the judicial power shall be vested in a Supreme Court and in inferior courts.

The judicial power imposes a duty as well as a prerogative upon the justices of that Court. Suppose they were attempting to fix the calendar of the business of the Supreme Court and provide for the argument of cases before the Court. Suppose that three of the justices, or one-third of the total number, were to say, "No; we do not want case A brought up. Carry that over until tomorrow or until next week;" and suppose that when next week came they

were to say, "Carry it over until next month;" and suppose that when next month arrived they were to say, "Carry it over until next year; we want to submit some more data. We do not approve what the majority may do in that case; therefore we protest against having that case placed on the calendar of the Supreme Court. We protest against its being argued by counsel before the Court, and against the briefs being received and considered." Or suppose the case had been argued, and suppose the Court had the matter before it, and suppose when the nine justices of the Court came to their conference, three of the justices were to say, "Mr. Chief Justice, we are not ready today. We do not want to take up that case now"; and suppose at the next conference they said the same thing, and at the next conference they persisted in the same course, and at the fourth conference the same conduct was engaged in, and day after day and week after week and month after month passed and those three justices continued to deny to their six brethren on the Supreme Court bench the right, the prerogative, and the duty of taking up and disposing of a case pending before that Court. If that ever became known, Mr. President, what would be the shock and the consternation of the citizens of the United States over such conduct by that Court, no matter how deeply the minority of justices felt that the probable opinion of the majority would be objectionable to them, and even not in accordance with the Constitution of the United States.

It all goes to show that when a minority presumes to tell a majority that the majority cannot even bring before a legislative body a legislative proposal or, in the case of a court, a legal proceeding, in such event the legislative or judicial powers are being denied to that body which has the obligation of functioning as a legislative or judical tribunal.

So I say that the Constitution of the United States is thwarted when the legislative function is denied to the Senate of the United States by a minority of its membership.

Mr. President, I realize that majorities can often be and often have been wrong; but surely there cannot be so much error in the decision of a majority upon a matter properly before the tribunal of which the majority is a part as there can be in a policy of a minority, often a small minority, which denies to the tribunal even the privilege of considering, let alone deciding, a matter which is properly before the duly constituted tribunal.

Furthermore, the Constitution of the United States provides that upon the demand of one-fifth of the Members of the Senate, a yea-and-nay vote may be required. Obviously that provision contemplated that eventually there would be a yea-and-nay vote if one-fifth of the Members of the Senate wanted the decision to be recorded by the yeas and nays. Obviously the forefathers contemplated that the Senate should get something done, should do its duty; so that provision of the Constitution clearly contemplates that although the Senate should debate, it should eventually decide the issues which are properly before it.

A third provision of the Constitution is that each House of the Congress of the United States is vested with authority to make its own rules. That is a constitutional privilege. Of course that is inherent in the nature of the body itself, but it is recognized by the Constitution that the Senate of the United States, and also the House of Representatives, shall have the power and of course the duty, since it must have rules in order to transact business, to prepare and to formulate and to determine its own rules.

Mr. President, is the minority in this case willing to allow the Senate of the United States to amend one of its rules? Obviously it is not. I say this is not a debate, but it is a determined obstruction which does not appeal to the Senate as to how it should vote, but tells it with all the strength the minority possesses that the Senate shall not vote; and not only that it shall not vote, but that it shall not even bring up a proposed rule change and make it the unfinished business on the Senate calendar. The minority says to the Senate, "We will not even allow you to consider a rule change," which under the Constitution of the United States the Senate is certainly privileged to do. Indeed, Mr. President, the Senate has a duty to modify its rules as experience dictates the necessity thereof, so that it may the better discharge the duty imposed by the first article of the Constitution which vests in the Senate and the House of Representatives the legislative power of the Government of the United States. Indeed, Mr. President, one of the ablest Senators who ever sat in this body, Senator Walsh, of Montana, argued, back in 1917, that it was unconstitutional for the Senate of the United States to adopt a rule that would thwart the legislative function which the Senate is duty bound to discharge. He said that we cannot escape the duty of legislating, imposed upon us by the Constitution, by the adoption of a rule which would thwart legislation and deny the right of the exercise of legislative power.

Mr. President, the Constitution of the United States provides that the Senate shall have a right to adopt its own rules. Of course, it does not tell us what the rules shall be; it does not prescribe the details. Of course it was contemplated that they should be worked out according to the wisdom of the Senate, based on the knowledge and the experience Senators would acquire.

But what do we have here? As we go back down the lane of history, we find that in the organization of the first Senate, when the rules were first promulgated, there was provision for a previous question. I know it has been well and ably said that the "previous question" was not contemplated as an instrument to bring debate of a general character to a conclusion, but that it was intended only to prevent the further discussion of matters of great delicacy and subjects the airing of which would not be in the public interest. Nevertheless, Mr. President, the previous question conferred upon the Senate a power to decide when it should use it.

Of course I am aware that when the rules were revised in 1806, after the farewell adress to the Senate of Vice President Aaron Burr, who called attention to the little use that was being made of the previous question rule, and that it probably was not necessary to retain it in the rules as then revised, the "previous question" was eliminated.

Mr. RUSSELL. Will the Senator yield for a question?

Mr. PEPPER. Mr. President, I regret exceedingly not to yield to my able friend the Senator from Georgia, but the Senator from Louisiana [Mr. LONG] previously asked me to yield to him, and I replied that, if I might do so, I should like to finish my remarks, and then I shall gladly yield to any Senator.

Mr. RUSSELL. Very well.

Mr. PEPPER. So, Mr. President, I say there was that power in the first Senate. Someone may say, "Yes, but the founding fathers never contemplated there would ever be such a thing as cloture." Eleven of those who were Members of the first Senate had participated in formulating the Constitution of the United States. They sat in the Senate. They had sat in the Constitutional Convention. The records do not disclose any outcries from those founding fathers that the inclusion of the previous question in the Senate rules was contrary to the sentiment of the framers of the Constitution. I do not recall whether their names have been put in the RECORD previously, but I shall not burden the RECORD very much if I put them in. They were John Langdon, of New Hampshire; Rufus King, of New York; Caleb Strong, of Massachusetts; William S. Johnson, of Connecticut; Oliver Ellsworth, of Connecticut; William Patterson, of New Jersey; Robert Morris, of Pennsylvania; George Read, of Delaware; Richard Bassett, of Delaware; Pierce Butler, of South Carolina; and William Few, of Georgia. Eleven Senators who sat in the Constitutional Convention were Members of the first Senate. They inserted within its rules the power to invoke the previous question. Moreover, we are told the previous question was employed prior to 1806, I believe, four times. I do not know, and I am told the details of its use are not disclosed, as to the occasion. I am aware of what has been said by authorities on the subject as to the limitation of it. But the previous question to bring debate to a conclusion was used four times between 1789 and 1806.

Through the years there has been a lengthy and voluminous history of efforts by leaders and Members of the Senate to curb the abuse of unlimited debate, in the public interest, in order that the Senate might discharge its constitutional duty to legislate for the Government of the United States. When I look back over the list of Senators who made those proposals, I am not ashamed to be in their company. I mention now Oscar Underwood, of Alabama, Senator Martin, of Virginia, the majority leader in 1917, Henry Clay, of Kentucky, but in the history of the country, from 1806 until

1917, scores of other Senators have recognized the necessity of meeting the abuse of the privilege of unlimited debate which prevailed in the Senate with a good many modifications which I shall not go into at this time.

During the Civil War, when there were executive sessions of the Senate, debate was limited to 5 minutes in executive session. There were numerous times during that period when the Senate voluntarily imposed limitations upon debate. Even now the rules of the Senate, aside from rule XXII, provide two limitations I can readily think of. One is that in the morning hour a Senator can speak for only 5 minutes; the other is that no Senator can speak more than twice on the same measure on the same legislative day. That is a permanent rule of the Senate. Nobody has attempted to repeal it. It is a limitation on debate. If there is to be free and unlimited debate, as some day there must be, why limit a Senator to two speeches on a bill? I am sure most of us think, Mr. President, the oftener we speak, the more we educate and edify our colleagues and the people of the country. Why limit a Senator's opportunity to educate and edify to only two speeches in one legislative day upon a subject, if it be a very serious and important subject? Can Senators not well imagine we might be debating the Atlantic Pact, in connection with which the Senator from Texas [Mr. CONNALLY], the chairman of the Foreign Relations Committee, and the able Senator from Michigan [Mr. VANDENBERG], the ranking minority member, might want to make a dozen speeches. Their colleagues might wish to hear them. Yet, under the rules of the Senate they would have to get unanimous consent before they could speak more than twice. Thus there has been constituted a rule for the limitation of debate, the necessity for which has developed from our experience of more than one and a half centuries of fruitful existence.

What was the occasion for the adoption of rule XXII, an amendment to which is now attempted to be brought before the Senate? Some say filibusters have never stopped anything that mattered; no legislation of any importance has ever been killed by a filibuster. In 1917 the ominous shadow of Kaiser Wilhelm and Prussian militarism and conquest already hovered over a great part of Europe and hung in the American skies. President Wilson proposed to the Congress that the Executive have authority to arm merchant ships of America plying the waters of the Atlantic, in order that we might defend Americans who were the crews of those ships, in order that we might preserve the freedom of the seas, which was a cherished American doctrine, in order that we might deliver goods to those to whom we chose to sell. Protecting the lives and the property of American citizens was the highest function of the Chief Executive. Yet when the proposal reached the Senate one Friday afternoon, at a time when, under the Constitution, the Senate would adjourn on the following Sunday because of the expiration of the Congress, it was a filibuster that prevented a vote in the Senate upon that bill, which admittedly, I think, would have prevailed had the Senators been given an opportunity to discharge the right they have to vote.

We hear a great deal in the Senate about the rights of minorities, although I am not so sure that the purpose of the present filibuster is not to prevent the majority of the Senate from preserving the rights of important minorities. I am not so sure from what has been said whether the minority today speaks the language of liberation from oppression or wishes to continue to forge shackles which have clung around the wretched feet of some minorities for centuries past.

I say we hear a great deal about the rights of minorities. Would it be an impropriety if I were to suggest that possibly the majority also has some rights in a legislative body? Would I be presumptuous to suggest that one of them is the right to determine what the Senate business shall be? Do I go too far when I intimate we have the right to debate and to deliberate and eventually to vote? Is it an unreasonable demand of the majority that they have a right to fix the Senate calendar, to determine what we shall debate, to give ample opportunity for discussion, and finally give Senators the right to act officially and to make a decision one way or the other?

I think I correctly recall that it was Daniel Webster who, in giving a definition of due process of law, said:

> It proceeds upon inquiry. It hears before it condemns, and renders judgment.

Does not a majority eventually have a right to render judgment, along with the right of inquiry, the right of hearing, before it decides?

So, Mr. President, I venture to say that the majority of the Senate has some rights which might be spoken of here, I hope, without offense, without any desire to diminish the rights of any Senators in this Chamber.

In 1917 a Senate filibuster killed President Wilson's recommendation that the Government be permitted to arm the merchant ships of America navigating hostile waters in moving across the sea. That precipitated action by the Rules Committee of the Senate. The agitation had started in 1915, and the Rules Committee had recommended in 1916 that there be adopted a cloture rule substantially in the form of rule XXII. But finally, when the filibuster killed President Wilson's proposal to arm American merchant ships, there was such indignation in the country at such restraint against the exercise of such power—indeed, Mr. President, there was such a consciousness in the Senate that something should be done—that something happened. What was it? The Republican conference and the Democratic conference agreed almost unanimously, as shown by the debate, upon the appointment of a committee of five Democrats appointed by the Democratic conference, and five Republicans appointed by the Republican conference, to get together and to formulate a cloture rule, because none existed in the Senate at that time. That committee of 10, a splendid bipartisan committee, made its recommendations. I believe the debate shows that at one time the action was unanimous, and then some Senator raised a question, but it was certainly an overwhelming unanimity which that committee presented to the Senate when it recommended the adoption of rule XXII. The Senate adopted the recommendation of the committee by a vote of 76 to 3 after about 6 hours' debate.

We Senators know what rule XXII is, but to those who may not be so well informed as we are, and who may read the RECORD, may I simply say that it is, of course, a rule which allows 16 Senators to file a petition for cloture. When such a petition is filed, it is the duty of the Presiding Officer to give notice to the Senate, through the clerk, of the filing of such a petition, and on the following calendar day but one, 1 hour after the Senate convenes, it is the duty of the Presiding Officer to lay the cloture petition before the Senate. Then it is up to the Senate to decide by a vote whether debate shall be brought to a close. If two-thirds of the Senators present and voting, it being assumed, of course, that a quorum is present, vote for closing debate, it is closed; but thereafter each Senator may speak for 1 hour on the bill or amendments, or upon amendments exclusively, whichever may be his choice. That gives the privilege of debate for 96 hours. It did not take the B–50 more than 94 hours to circle the globe. So an airplane could fly around the world while Senators were still debating under the permission of the cloture rule, rule XXII, if two-thirds of the Senators present and voting should bring debate to a close.

Mr. President, in 1917 that rule was proposed by a bipartisan committee of five Democrat and five Republican Senators. After 6 hours' debate in the Senate it was adopted by the Senate as rule XXII. It was assumed then that the Senate, by a two-thirds vote, could bring debate to a close. I have read in the CONGRESSIONAL RECORD every word of those 6 hours of debate, and there is not one intimation in the debate that any Senator had a doubt of the universality of the application of rule XXII to any pending question, as well as to any measure; that is, any bill or resolution that might happen to be before the Senate. In my opinion, it was certainly the belief of the Senate which adopted that rule and of the Senators who proposed it that debate was subject to being closed by two-thirds of the Senators present and voting, if they chose to close debate.

Of course, Mr. President, just as the founding fathers could not anticipate everything, it proved later on that the framers of that rule did not anticipate everything.

But before I pass to what happened in 1917, may I call the attention of my honored and revered southern colleagues to what southern Senators did in the Senate in 1917, with respect to rule XXII. I think the able Senator from Tennessee [Mr. KEFAUVER] and I, if we associate ourselves with the conduct of southern Senators in 1917, need not be ashamed of our company, or regret it. In the first place, who was it who brought the ma-

jority resolution before the Senate but the able majority leader and distinguished Senator from the Old Dominion State of Virginia, Senator Martin.

Mr. President, I want to read the names of the Southern Senators who voted for the cloture rule, rule XXII. Mind you, Mr. President, I say that when they voted for it they did not anticipate that shrewd and ingenious parliamentarians would later discover the loopholes which have permitted numerous filibusters since 1917 and which permit the filibuster which is in existence in the Senate today and it is these loopholes which the proposed rule change now before us would eliminate.

Here are the southern Senators who voted "yea" upon the adoption of the two-thirds rule:

Beckham of Kentucky; Broussard of Louisiana; Hardwick of Georgia; James of Kentucky; Kirby of Arkansas; McKellar of Tennessee; Martin of Virginia; Overman of North Carolina; Ransdell of Louisiana; Robinson of Arkansas—

I pause, Mr. President, to pay tribute to the great name of Joe Robinson, who was the leader of the Senate when I had the honor to come here in late 1936—

Sheppard of Texas; Shields of Tennessee; Simmons of North Carolina; Smith of Georgia; Smith of South Carolina; Swanson of Virginia; Underwood of Alabama; Vardaman of Mississippi; Williams of Mississippi.

Those were the Senators from the South, Mr. President, who actually voted for the adoption of that resolution.

Certain southern Senators were absent, but their attitude was recorded in the RECORD. They were:

Underwood of Alabama, for whom it was announced that he would vote "yea"; Culberson of Texas, on whose behalf it was announced that he would vote "yea"; Tillman of South Carolina, for whom it was announced he would vote "yea." The then senior Senator from Florida, my revered predecessor, Senator Duncan U. Fletcher, was absent and apparently was not recorded.

Mr. President, would anyone suggest that those southern champions did not love the South? Were they traitors to its traditions? Were they scallywags or carpetbaggers? Were they acting against the land of their birth and of their loved ones? No, Mr. President, I do not regard myself as being untrue to the South, to its traditions or its great champions of the past, if I associate myself with those in the Senate who believe that under the Constitution we have a duty to function, that under the Constitution we have the right to amend our rules, or, Mr. President, in this troubled era of the earth, when we stand like an Atlas with the world trembling upon our shoulders, that we have an obligation to promote and to further democracy in America and in the world.

As I have said, Mr. President, it was discovered that there were loopholes. I believe the first discovery came when it was suggested that there might well be cloture applied to the reservations to the Treaty of Versailles, and the Presiding Officer ruled that the cloture rule would not apply to reservations. But the author of the petition did not seek to make it applicable to the treaty and the reservations. Let that be remembered and borne in mind.

Then in 1922 there was debate upon another one of the so-called civil-rights bills, in that year the antilynching bill. I believe it was called the Dyer bill at that time. A moment ago I read the name of Mississippi's able John Sharp Williams as one of those who supported cloture in 1917, and now I refer to one of the most able and beloved men who ever sat in the Senate, a man to whom I am personally greatly indebted, Senator Pat Harrison, of Mississippi, who, apparently, was the ingenious discoverer in 1922 of the privileged motion to amend the Journal which brought the first ruling, I believe, that the cloture rule was not applicable to a motion to amend the Journal.

Filibuster after filibuster intervened, Mr. President, until finally in 1946, when the able Senator from Tennessee [Mr. MCKELLAR] was in the Chair, a question was presented as to whether rule XXII was applicable to a motion, and the Senator from Tennessee, then the President pro tempore of the Senate, ruled that rule XXII would not apply to the motion which was involved at that time, that also being, if I recall correctly, a motion to amend the Journal.

In 1948, when the able senior Senator from Michigan [Mr. VANDENBERG] was in the Chair as the President pro tempore, another cloture petition was presented. That cloture petition attempted to bring to a conclusion debate upon a motion to take up one of the so-called civil rights bills, the anti-poll-tax bill. I may say with no regret, Mr. President, that I am basically the author of that bill, introduced in the Senate in 1941. The able President pro tempore at that time filed an opinion in which he said that he felt himself bound by precedent and by the limitations of the rule to hold that the cloture rule, rule XXII, did not apply, under the circumstances then prevailing, to a motion to take up the anti-poll-tax bill.

If I recall the situation accurately, I think it should be said that this was a motion to take up, but there was other unfinished business in the Senate at that time. But I shall read in part what the able President pro tempore gave as his opinion. I quote from page 16 of the very excellent bulletin entitled "Public Affairs Bulletin No. 64," prepared by Dr. George B. Galloway, on the subject Limitation of Debate in the United States Senate. Dr. Galloway is now with the Legislative Reference Service of the Library of Congress. He was the principal adviser of the Joint Committee of the Congress on Reorganization, which produced the Reorganization Act effective in January 1946. This is a quotation from the opinion of the Senator from Michigan [Mr. VANDENBERG], then President pro tempore:

> In the final analysis, the Senate has no effective cloture rule at all. * * * a small but determined minority can always prevent cloture, under the existing rules * * * a very few Senators have it in their power to prevent Senate action on anything.

Mr. President, this is the President pro tempore of the Senate speaking, in the midst of a decision, or as a part of the explanation of an official decision made by him in interpreting rule XXII. I repeat:

> A very few Senators have it in their power to prevent Senate action on anything.

The Senator from Michigan continued:

> The existing Senate rules regarding cloture do not provide conclusive cloture. They still leave the Senate, rightly or wrongly, at the mercy of unlimited debate ad infinitum.

That decision was delivered on August 2, 1948.

Mr. RUSSELL. Mr. President, will the Senator yield for a question?

Mr. PEPPER. I yield, as I said a while ago, only if some Senator wishes to question the accuracy of a quotation. I shall yield for that, but as I indicated a moment ago, if the Senator will permit me to conclude my address, I shall then yield to any Senator who wishes to ask a question. If I do not follow that course I shall never get before the Senate the main points I wish to make.

Mr. RUSSELL. Of course, under that condition, Mr. President, I could not question the Senator, because I agree completely with the accuracy of the statement he has quoted. I merely desired to ask the Senator whether he was in agreement with the authority he was quoting so earnestly.

The PRESIDING OFFICER (Mr. GILLETTE in the chair). The Senator from Florida declines to yield.

Mr. PEPPER. Experience has proved thus far, at least, that the Senator from Michigan was right in what he was saying. It has generally been insisted that he was right. The question may be before the Senate at a later time, and if the question is presented to me as to what I would do, perhaps, if I were Presiding Officer of the Senate, that might be one thing. What I might do as a Senator, when the Senate has the right to make rules, may be another thing. I have never questioned the sincerity of the ruling of the able Senator from Michigan. I did, along with the majority leader, and I believe another Senator or two, submit some observations at the time the ruling was about to be made as to its correctness which speak for themselves.

I do say that certainly some way must be devised by which the Senate can control the business of the Senate and the Senate Calendar. We may have to decide that matter, Mr. President, before this discussion is concluded. But I am saying that, since 1917, Presiding Officers, when motions were presented, have ruled that there were loopholes in rule XXII, adopted in 1917, and the loopholes so far discovered by ingenious parliamentarians—than whom there are no abler anywhere than there are in the Senate—have been in reference to motions to amend the Journal after an adjournment, and, of course, motions to take up. To plug these loopholes is the primary purpose of the proposed amendment to rule XXII we are trying to take up.

The Senator from Tennessee [Mr. MCKELLAR], in the chair as President pro

tempore, and the Senator from Michigan [Mr. VANDENBERG], in the chair as President pro tempore, have held that they were bound by precedent to rule the way they did rule. What a court says, of course, is some evidence of what the law is, and the Chair certainly makes the rule, if the situation is such that a Senator cannot gain anything by taking an appeal; he is the final authority. If he rules that the rule does not apply, there would be no efficacy in taking an appeal, because that, in turn, would be subject to unlimited debate; and if the appeal were laid on the table, the ruling of the Chair would simply be affirmed. So when the Presiding Officer decides against the applicability of rule XXII, the majority is helpless to reverse him or even to get a vote of the Senate, because of the privilege of unlimited debate, which may be applied even to an appeal from the decision of the Chair by a previous understanding among Senators and under rulings of the several Presiding Officers.

It was discovered, therefore, that these loopholes were assumed to exist, and it was felt as long ago as the year before last that something should be done about it by the Committee on Rules and Administration of the Senate. A resolution came out of that committee in 1947, and lay upon the Senate Calendar throughout the session. In 1947 the able Senator from Massachusetts [Mr. SALTONSTALL], if I recall correctly, was designated by the Republican conference to study the subject of how the rule might be amended to bring about some kind of effective cloture in the Senate. The Committee on Rules and Administration reported favorably the resolution which we are attempting to get before the Senate, which received bipartisan support, and the favorable report for the proposed rule change was made by a vote of 10 to 3. Now the matter is here before the Senate upon a motion to take up.

Mr. President, I certainly do not question the motives or the deep sense of conscientiousness that impels the Senators of the minority in this fight, but has any Senator ever heard of a Senator associated with the minority in this debate propose to repeal rule XXII? Has any Senator ever heard the suggestion that rule XXII was undemocratic, that it thwarted the will of the minority or that it would destroy the character and impair and tarnish the noble traditions of the Senate? If they feel that any form of cloture accomplishes such odious results—and admittedly rule XXII applies to a bill once it is under debate—why have not these honorable Senators proposed a complete repeal of rule XXII, its eradication from the rule book, the obliteration of that contamination from the structure of law which governs the Senate? But they have not done that. Of course, they are temporarily satisfied to rely upon the loopholes which they have ingeniously discovered, or which their predecessors have discovered.

The question, Mr. President, which cannot be escaped is, Shall the Senate of the United States have the power which is conferred upon it by the Constitution, to make its own rules? If it has the power under the Constitution to make its rules it has the right to consider proposed rule changes, and anyone who denies that, I respectfully submit, denies the admitted right of the Senate to exercise its constitutional prerogative.

Yet able and honorable Senators of the minority tell us that in spite of the fact that one of the outstanding standing committees of the Senate has had before it numerous resolutions proposing rule changes, has had public hearings upon those proposals, has adopted them in committee, has recommended one of them to the Senate by a majority of 10 to 3, and has had it placed upon the Senate Calendar—yet notwithstanding all that they forbid the Senate the right to consider a proposed change in its rules.

Is that in accordance with the Constitution? Is that in accordance with the basic obligation of all of us to facilitate the business of the Senate? Is that in protection and in furtherance of democracy in this last great strong citadel of democracy in the world today? I submit that the answer is obvious—it is "No."

As I have stated before, Senators may say, "Well, there is nothing of any moment that has ever been thwarted by a filibuster." Dr. Galloway has listed on pages 20 and 21 of his bulletin, to which I have referred, a number of bills which have been defeated by filibuster.

The reconstruction of Louisiana in 1865.

The repeal of election laws in 1879.

The force bill in 1890 and 1891.

Three rivers and harbors bills in 1901, 1903, and 1914.

A tri-State bill in 1903. If I am informed correctly, that was a bill for the admission of three States into the Union, and it was defeated by filibuster. They may have later been admitted, no doubt were, but it confirms what the Senator from Michigan [Mr. VANDENBERG], said in his decision, that filibuster, under the present state of things, may be applied to anything. While it happens to be a rule change today, it was other things at other times.

The Colombian treaty over the Panama Canal in 1903.

Two ship subsidy bills in 1907 and 1922–23.

The Canadian reciprocity bill in 1911.

Arizona-New Mexico statehood in 1911.

The ship purchase bill in 1915.

Mr. McFARLAND. Mr. President, will the Senator yield?

Mr. PEPPER. If the Senator will allow me——

Mr. McFARLAND. Will the Senator yield for a question?

Mr. PEPPER. I have been declining to yield until I could conclude, and if the Senator will allow me——

Mr. McFARLAND. The Senator mentioned my State.

Mr. PEPPER. In that case I guess I will have authority to make my own distinction. I want to be accurate about anything I say. If there is any inaccuracy in what I have said I should like to be corrected. I yield for a question only to the Senator from Arizona.

Mr. McFARLAND. Is the Senator aware that the filibuster in regard to statehood of New Mexico and Arizona in 1911 was to secure action of the Senate which would permit the admission of Arizona as a State and that if it had not been for that filibuster, Arizona might not have been a State today.

Mr. PEPPER. I have no doubt, Mr. President, that Arizona would have made such an impression upon the Senate with its claim for admission that it would have been heard and have received favorable action at an early date. But I am glad to have any elucidation on the subject from my able friend from Arizona.

I mentioned the ship-purchase bill. That was in 1915. There were German ships in American ports. President Wilson wanted to purchase those German ships and put them in American commerce. Senators filibustered the proposal and defeated it by a filibuster. That was related to the national defense. An adequate maritime service, of course, is essential to the national security.

I have already referred to the armed-ship resolution of 1917. A filibuster prevented the President of the United States from protecting American lives and property and preserving the American freedom of the seas at that time.

Oil and mineral leasing bill and several appropriation bills in 1919.

Let me interpolate, Mr. President, so that I may proceed in chronolgical order, that I believe it is a fair judgment that the Treaty of Versailles was defeated in the Senate because there was no effective cloture rule applied—at least at the time of the debate upon that vitally important proposal.

Senators will remember that President Woodrow Wilson sent the Treaty of Versailles to the Senate Foreign Relations Committee in July of 1919. It was far into 1920 before that measure was ever disposed of—after prolonged debate and propaganda had so confused and divided the minds of the American people that they failed to demand of the Senate support of the President. The Senate did not support the President. The League of Nations was defeated. America stayed out, although we had initiated the proposal in the Versailles Peace Conference, and I, for one, will always feel that a part of the penalty and price we paid for that error was World War II.

There were three antilynching bills defeated by filibuster—in 1922, 1925, and 1937–38.

The migratory-bird bill, 1926.

The campaign-investigation resolution, 1927.

The Colorado River bills—Boulder Dam project—1927–28.

Emergency officers' retirement bill, 1927.

Washington public-buildings bill, 1927.

National-origins provision in immigration law—resolution to postpone—1929.

Oil-industry investigation, 1931.

Supplementary deficiency bill, 1935.

Work-relief bill — prevailing-wage amendment—1935.

Flood-control bill, 1935.

Oil-conservation bill, 1936.

There were four anti-poll-tax bills, in 1942, 1944, 1946, and 1948.

The fair employment practices bill, 1946.

Dr. Galloway adds at the bottom of page 21 of the bulletin the following:

Numerous appropriation bills: For a partial list of 82 such bills that failed from 1876 to 1916, see CONGRESSIONAL RECORD, June 28, 1916, pages 10152 and 10153.

So, Mr. President, the power to filibuster applies not only to the bad; it applies to the good. The power of the minority which may be exerted to defeat the consideration of a bad measure may also be used to thwart the most crucial decision the Government of the United States could make. I am not saying that it has been so used. I say that it could be. I say that it is a power which is dangerous to American democracy. I say that it is a power which is out of harmony with the character of this body, this Government, and this Nation. I say that it is a sword which might strike down the very deliverance of this country from danger. It is a power which no minority in any assembly should possess. It is a power which must be denied and curbed if the Senate of the United States is to discharge its constitutional duty to legislate, its privilege to provide its own rules, and its obligation to protect and further the greatest Government in the world, and the sentiments of democracy at home and abroad.

Another thing which I wish to emphasize to my honored colleagues is the complexity and multiplicity of the problems and tasks which face us as legislators in the Senate, and the almost immeasurable demands which face the Government of the United States, which we as Senators must squarely meet.

This is the highway of legislation; and, if legislation cannot pass this junction point, the American Government is paralyzed and helpless. If a minority can prevent the taking up of a proposed rule change, if a minority in the Senate can deny to the majority the right to consider a bill, it can also filibuster a motion to make a declaration of war, or the making of peace, or the supplying of the armed services with necessary funds, or the raising of an Army, Navy, and Air Force, or the organization of a National Guard.

Mr. President, that same power might paralyze a government in peace or war. It is a dangerous power. Senators ought not to ask that they be protected in the exercise of such a power. While they might not abuse it, who can attest that every man who will ever sit in this assembly will have an equal fidelity to the aims and objectives of this great Republic?

Take the matter of the Senate giving advice upon treaties, giving to the President of the United States concurrence in the establishment of our foreign policy. I invite attention to the danger which the power to filibuster constitutes to the Nation's foreign policy, which is our weapon along with our armed forces, to maintain peace and democracy in the world.

Today the question happens to be a motion to take up a proposed rule change. At an earlier time, in 1948, it was a motion to take up an anti-poll-tax bill. In 1946 it was a motion to take up an anti-poll-tax bill. In 1946 it was a motion to take up a labor disputes measure. In 1946 it was a British loan which was the subject of filibuster, upon which a cloture petition was filed, which was defeated by an equal vote of 41 to 41. That was a British loan. It might have been the Marshall plan. It might now be the proposal to extend the Marshall plan for another 15 months. Such a measure is now on the calendar. When the able chairman of the Foreign Relations Committee rises to move that the Senate proceed to the consideration of the extension of the Marshall plan, suppose Senators leap to their feet and begin to filibuster.

Someone may say, "Filibusters do not last very long. It is only a matter of a few days." Some figures have been compiled on that question by Dr. Galloway. Let me give the time consumed in some famous filibusters. I am referring to some data given me by Dr. Galloway.

In 1841 the subject filibustered was the Bank of the United States. The filibuster lasted 14 days.

In 1846 the subject was the Oregon bill. The filibuster lasted 2 months.

In 1880 it was the Blair education bill. The filibuster lasted 26 days.

In 1881 the subject of filibuster was the reorganization of the Senate, and the filibuster lasted 47 days.

How many more days are we in for now, if some way is not discovered to bring this matter to a close?

In 1890 the force bill was the subject of filibuster, and the debate lasted for 29 days.

Mr. STENNIS. Mr. President, will the Senator yield for a question concerning the accuracy of those statistics?

Mr. PEPPER. On that subject, I yield only for a question, so that I may not lose my standing.

Mr. STENNIS. May I inquire of the Senator if the time given as to the duration of those filibusters includes merely the days from the beginning to the end, or whether it is the actual days consumed in debate on the particular bills? For example, this subject has been before the Senate since a week ago last Monday. As the Senator knows, a great deal of time has been spent on other subjects. Does the Senator have information with reference to the so-called filibusters he cites which will give us the interim time?

Mr. PEPPER. I regret that I am unable to give the Senator that information. I asked Dr. Galloway to do some research in the Library of Congress about the length of filibusters and the subjects. These are the data which he supplied me. However, I promise the Senator that I shall ascertain that information accurately and place it in the RECORD, or else advise him at a later time, so that he may state it for the RECORD, if he chooses to do so.

In 1883, as I have said, the Silver Purchase Act was under consideration by the Senate, and the filibuster on it lasted 64 days.

In 1914, the Panama Canal bill was the subject of a filibuster which lasted 31 days.

In 1917 the armed ship bill was the subject of a filibuster which lasted 23 days.

In 1926, the World Court bill was the subject of a filibuster. Mr. President, I think that was related to the peace of the world. Had it not been for the cloture rule, the debate could not have been brought to a close. I know what the issue was. The Senate did not agree to have the United States join the World Court; but at least the Senate passed upon the matter, because the cloture rule was held applicable. If some Senator had moved to bring up that bill, and then the filibuster had started, there would not have been any power, according to the past rulings of the Chair, to have concluded debate upon that vital matter.

In 1933 branch banking was the subject of a filibuster which lasted 14 days.

In 1938 the antilynching bill was the subject of a filibuster which lasted 29 days. In that case I would not be surprised to learn that that was time actually devoted to debate. Incidentally, let me make my own position clear. I am going to refer to the civil-rights bills in a few minutes. I joined in the fight on an antilynch bill in 1938, and spoke for 6 hours on one day and for 5 hours on the next. I remember that many other lengthy speeches were made by my colleagues at the same time. I wish to interpolate, however, that my deep conviction about the League of Nations and the feeling I have always had that it was the fact that the Senate did not then bring debate to a close within a reasonable time that defeated the League of Nations in the Senate, have, I admit, colored my thinking on the subject ever since. I have always had strong convictions about an international organization, because of what happened then in the Senate. There was no more able advocate of the League of Nations than the distinguished Senator from Mississippi, John Sharp Williams, who was a giant in the Senate in support of that great proposal. But I became convinced that I would rather risk the wrong that the Senate might do after debate had been fully had and, if rule XXII applied, after it should be observed, than to deny the Senate the privilege of doing anything.

I think I would prefer the protection of the courts of the country against having a majority prostitute and deny the safeguards of the Constitution, rather than to have to depend on a minority of the Senate, with all respect and deference to my honored colleagues. I am afraid that sometimes Senators in their zeal and in their conscientiousness forget that we still have courts to assure the application of all the curbs and restraints of that blessed document, the Constitution, which Gladstone said is the greatest document ever struck off at a given time by the mind and hand of man.

So, in addition to the restraining influences of their own consciences and their own loyalty to their country and their consideration for their colleagues, we have the assured debate which rule XXII will allow even if amended as proposed because everyone knows that under rule XXII, if all the loopholes are plugged, it is necessary first to obtain the signatures of 16 Senators, in order to be able to file a cloture petition. Sixteen Senators constitute one-sixth of the entire Senate. I cannot imagine that Senators would join in a cloture petition

unless it had already been announced or unless it was previously known that the debate was not to educate, but to obstruct. I signed the petition that will be presented here today. I could not be forced to put my name on that piece of paper, Mr. President, if my honored colleagues here were to say, "Senators, hear us for a reasonable time. Pause before you decide." I tell my colleagues of the minority today, I would vote to give them a month for debate if they will give us assurance that when the month has expired, the majority may proceed to fix the Calendar of the Senate and bring this question to a decision. In fact, Mr. President, I would go further: If the minority will give me assurance that they will let us decide this matter, I will sit here in my seat every day I am able to be here for 2 months, to give them a chance to say everything they want to say.

But can they in good conscience give us such assurance, Mr. President? Have not they already said they feel this matter is so vital and so supreme that they cannot surrender any power they possess to prevent the Senate from even debating this question properly? That is the reason why we have to file the petition, because we know what their position is. We know the strength of their determination and their capacity to do what they have, with all honor and credit to them, set out to do, namely, to prevent the Senate from ever voting on the proposed change in the rule if they can help it.

So, Mr. President, I say I would prefer the protection of a majority and the shield of the courts, rather than to put the liberties and the security and the safety of America almost exclusively in the hands of a temporary minority of Senators in this body.

I was referring to bills which had been the subject of filibusters, and the length of time those filibusters consumed. The last one I have on my list is the one occurring in 1939, on the monetary bill. The time consumed by that filibuster was 16 days.

Dr. Galloway adds that the total time consumed on those several measures was 364 days; and there are 12 of them, so that makes an average of 30 days for each measure which was the subject of a filibuster, if Dr. Galloway's figures are correct.

Of course there have been numerous filibusters since 1939, which is the last date shown on the list I have. We have had filibusters on numerous other occasions.

Mr. President, I have pointed out the measures which have been the subject of filibusters. I have given the best evidence I have as to the length of time, both total and based on an average, consumed by those several filibusters.

And now, Mr. President, we come to the making of a very serious decision, namely, whether we are to allow the Senate to function as a legislative body, whether we are to allow it to discharge its constitutional privilege of fixing its own rules, or whether we are to deposit that power in a minority which from time to time may exist in the Senate of the United States.

Let it be remembered, Mr. President, that although this minority may be one-third of the Senate or may be even larger, on occasion it has been only one Senator, or only two Senators, or a very small number of Senators; as the Senator from Michigan [Mr. VANDENBERG] has said in his ruling, "A very few have the power to thwart the will of the Senate."

Mr. President, I said that I thought the filibuster and the power to filibuster are contrary to the provision of the United States Constitution which vests the legislative power in part in the Senate of the United States, as one of the coordinate bodies of the United States Congress. But there is another power the Senate has, as well as the legislative power, and that is what might be called a sharing of the executive power and functions. For instance, it is the power of the Senate to give concurrence upon treaties and other matters of foreign policy.

I have already mentioned that a filibuster was applied at one time to the British loan. I have pointed out that it might be applied to the Marshall plan. I, of course, suggest it might be applied to the Atlantic pact when it comes here in a few days from another committee of the Senate.

This is what concerns me: I spoke a while ago about the complex and awesome burden which faces the Government of the United States. Think how colossal are our responsibilities in the world at large. I feel that if the Senate is to continue to discharge its functions adequately to advise and consent to the ratification of treaties, if it is a necessary concurring party to our foreign policy as negotiated by the President, the Senate must not only have the power but it must be willing to make decisions with respect to whether it shall give or withhold its concurrence. This is what I mean: In 1918 President Woodrow Wilson, at the end of the then greatest war in history, went to Paris to the Versailles Peace Conference. He felt that if out of the peace conference there was not brought forth a League of Nations we in another generation should have to face another world war. In fact, upon his western swing, if not at Pueblo, Colo., where he fell stricken during an illness in September 1919, he made the prediction that in 25 years, if we did not adopt or support the League of Nations, we should be faced with another war. It was only 20 years later, in 1939, that the evil Hitler sent his Nazi hordes across the border of Poland to start the actual fighting part of World War II, which later sucked into its maelstrom the lives of half a million American citizens.

President Wilson, while at Versailles, had notice that the Republican membership of the Senate to a considerable extent was proposing reservations to the League of Nations. He had notice that there was criticism of his effort to have the League of Nations included in the League Covenant. He had notice that a round robin had been signed by Senators and piled upon their desks, advising that they would not concur in the Versailles Treaty unless the reservations specified were attached to the League of Nations Covenant. He had notice of that. Before he left Versailles he also had notice that France was demanding security from the United States against the subsequent violation of its borders by a revived Germany. He had rumblings from back home as to what the Senate might do with respect to such a treaty executed by him as President. But what could he do, either with respect to the League of Nations Covenant or with respect to the treaty which he signed assuring our pledge of coming to the aid of France along with England if a revived Germany should again assault that ancient and noble people? What could he do except come home? What could he do except submit the League of Nations Covenant to the Senate and let it take its own good time, in committee and upon the floor, to determine whether it should give or withhold its advice and consent to the ratification of the treaty? Meanwhile, what did the Senate do? It was not until far into 1920 that the matter was disposed of. What had happened meanwhile? The Versailles Conference was disbanded. The world stood suspended awaiting the verdict of America, whose President had proposed the League of Nations, to see what we would do; for then, as now, we had emerged from the war as the supreme power on earth. And although Wilson should plead and beg and implore, though he should go to the country and urge the Senate to act, nobody had power to make it act. If the loopholes which have since appeared had been discovered, when the chairman of the Foreign Relations Committee brought the proposed treaty to the floor, Senators could have filibustered it to death on a motion to take up, and it never could have been even considered.

The Atlantic Pact, by a filibuster, can be kept from the calendar of the Senate, no matter what the demand from the Nation may be, if we allow this dangerous power to remain uncurbed.

Senators feel deeply about civil rights. Other Senators have their convictions about other subjects. They are not alone in the very deep sentiments they have on various subjects. If we honor their conscientious determination with respect to the proposed rule change, can we deny to other Senators the equal protection of the principles they regard as vital? And if every minority is accorded such privilege, such unimpeded prerogative, where are we, as a body?

If I recall correctly, I do not believe President Wilson ever submitted the proposed guaranty to France. But suppose it should have been necessary to have given France an answer within a reasonable time from the date of the negotiation of the treaty, perhaps, for her own security, to stop her from marching into Germany, and the President had sent it to the Senate saying, "Senators, I lay this before you. I think it is a national necessity. I beg of you to give it your primary consideration and to give me your answer about it. Will you advise and consent to its ratification when it goes to the Senate?" Senators feeling deeply on a subject can filibuster against the measure ever being taken up, let alone being decided.

I raise the question I stated on this floor in late 1944, that I thought the

Senate had a concurrent power with the Executive with respect to the foreign policy of the country. I still believe so. Certainly in respect to that policy which is embodied in treaties, we are a necessary concurring party. In other words, we are a partner to the partnership, the concurrence of both members of which is essential before partnership action, as it were, may ensue. Yet the President might be in the most important of all conferences. He might need our concurrence or at least our advice as to whether or not we would concur. He might send us an urgent appeal to act. But a minority has it in its power to prevent any action at all. With all humility, I want to say to my colleagues that in this important era of world history, in this day when America is reaching the perihelion, the Senate must be able to act. I do not suggest what its action shall be, but it must meet the challenge to act and to decide according to its good judgment and its conscience. Yet, so long as the power of filibuster remains uncurbed in the Senate, the United States of America has no assured capacity to do anything that a minority of the Senate might not permit. Can we afford that? Is that safe? Is that wise? Is that a rock, the durability of which is such as to bear the destiny of America and America's obligations? Can we make a determined minority of the United States Senate the arbiter of American conduct, the light of history, and the final rendezvous with human destiny? I deny that that is a safe power to remain in the hands of any minority, however conscientious, patriotic, and devoted to its convictions and the public interest such a minority may happen to be.

Mr. President, in conclusion on that point, I believe the President of the United States, having the right and duty to negotiate our foreign policy, should feel that it is essential to America's security and to the peace of the world to negotiate an international agreement, should have the right to do so. And having done so within a reasonable time he should be able to tell foreign powers, "I will give you an answer one way or the other." Yet, with the type of filibuster taking place in the Senate, no honest President, least of all, one informed of the Senate's traditions, can assure any foreign government that there can be an answer ready within any reasonable time as to what the Senate of the United States will do.

I base that statement on the fact that advocates of the antilynching bill have been trying since 1922 to secure its passage, and they have never been successful yet. Advocates of the anti-poll-tax bill have been knocking at the door of the Senate for years. That bill has seldom been on the calendar. On one occasion the able Senator from New Mexico [Mr. CHAVEZ], one day in the morning hour, by a clever thought, moved to take it up, when it was not debatable, and he kept it before the Senate until 2 o'clock. That is the only time we ever had an opportunity to debate it. It may not be a good idea, it may not be sound policy, but I have introduced such a bill, and I think it is entitled to the consideration of my colleagues. They can decide whether they want to support it. I should like to have the privilege of addressing myself to it and to the Senate in its behalf. I do not have any power to coerce Senators to an affirmative conclusion. I ask only the right to be heard upon the consideration of this measure. To deny that is to deny democracy. The majority of the Senate asks the right to be heard. Is that an unreasonable request to make, Mr. President—debate, deliberate, eventually decide? That is democracy.

Mr. President, I am addressing myself to this matter primarily because the subjects of all the filibusters which I have enumerated have not always been civil rights. There are 26 measures enumerated by Dr. Galloway as being the subject of previous filibusters. I have counted three antilynching bills as only one. I have counted the anti-poll-tax bills as only one. I have counted the Fair Employment Practice Committee bills as only one. It will be seen that only five of all the bills I enumerated a moment ago have been concerned with civil rights. Therefore, Mr. President, I am not addressing myself merely to the civil-rights program. I am talking about other legislation which may come before the Senate. I am talking about any rule change which the Committee on Rules and Administration or any Senator may propose to the Senate, having the right of consideration and eventual decision by the Senate.

Mr. President, that is the basis upon which I principally predicate my position. However, I am not afraid to say a few words regarding the civil-rights program. Again, Mr. President, I am no Yankee; I am no carpetbagger; I hope I am not even a scalawag. But I am not ashamed to associate myself with the general principle of human rights, yes, of civil rights, of all the people of this country, of all races, creeds, colors, and national origins. I myself happen to come of Anglo-Saxon stock. Of course, I am proud of it, but I do not ask any preference for that lineage of which I happen to be a part. I would not presume to suggest that they are the only worthy people and that before the law they alone have rights entitled to protection.

Mr. President, I have never known of a public issue more distorted, more misrepresented, and, therefore, more misunderstood, than is the so-called civil-rights program of the President of the United States.

Mr. President, I am not saying something here that I have never said anywhere else. If I am not presumptuous, I want to quote a little from a speech which I made in Montgomery, Ala., on October 7, 1948, in a debate with the very able spokesman for the so-called Dixiecrats, and representatives of the Republican and Progressive Parties.

Here are a few things which I presumed to say at that time:

It is good to feel beneath one's feet again the soil of his native State. Not far from here, I, like my ancestors before me, was born. To this State my forbears came in the long ago, seeking the fulfillment of the American dream. They planted, they toiled with their harvests, they reared their children, built churches and school houses and their humble homes. And from Alabama's soil my grandfathers went off to wear the gray in a cause that was already lost 90 years ago.

Go back with me to 1860. The Democratic Party split because our forebears demanded Federal protection for the extension of human slavery into the new States growing up in the West. A position which the National Democratic Party would not and could not accept. In the election of 1860, northern Democrats who nominated Douglas and the southern Democrats who nominated Breckinridge got nearly one-half million votes more than the Republican nominee, Lincoln; but Lincoln, because of the Democratic split, won in the electoral college and became the President. Those who risked all upon extending slavery into the new territory wound up by losing the slaves they had even in the South, which assuredly they could have saved for decades, if not generations, and have been paid for in the end.

Today, speaking to you with the candor which the situation demands, history was against human slavery just as history today is on the side of the Government of the United States, which is the champion of human liberty and freedom in this world, practicing at home the democracy it preaches to mankind. Anything other or less than the Government of the United States, giving fair and just constitutional rights to every segment of our citizenship, holds us up to ridicule and scorn before the totalitarians of the world as hypocrites, as preaching one thing and practicing another. If the South throws its weight and strength against the Constitution of the United States and the basic principles of Americanism it will and should lose.

But there is a clear and distinct sphere for the application of the Federal Constitution with utter fairness and impartiality and the operation of State laws, traditions, and customs, without one doing violence to the other. The President of the United States has been flagrantly if not designedly misrepresented in his recommendations on the so-called civil-rights measures to the Congress.

Hear me, my colleagues, and my fellow southerners.

He has not recommended one thing relative to segregation in the States, in the public schools, in restaurants, in hotels, in theaters, swimming pools and the like—and, of course, he has made no recommendation concerning churches, lodges, clubs, and associations of local and personal nature.

He has recommended the abolition of the poll tax as a condition precedent to any citizen, white, black, yellow, or brown, voting for President, Vice President, Senator, or Congressman, as the United States Congress has the power, and in my opinion the duty to do, if the States will not strike it down themselves. He has recommended Federal jurisdiction to prosecute lynchers of any citizen whatever his color or wherever he may be, if the sheriff or his deputy or the United States marshal or his deputy willfully conspire in the lynching but only in such cases. He has advocated that in respect to commerce crossing State lines, Congress has the right to require that race, religion, color, or national origin should not be the sole basis of either hiring or firing. He has advocated that private companies have no authority to segregate passengers crossing State lines in public conveyances. And he has advocated equality of treatment and opportunity in the armed forces. But, of course, he has not recommended, and of course, Congress has no power to interfere with or to abolish local laws, traditions, customs, and practices, respecting the wise separation of the races in certain local places and institutions in the several States.

Time, education, and wise experience will determine when, whether, or to what extent the local practices requiring certain race separations should be changed. And whatever the decision is in these matters, mind you, it must be made by the people in the several States under the Constitution of the United States.

The State of New York has abolished segregation between different races. All races are assured equal access to any kind of public place. But that was not done by the Federal Government but by Governor Dewey and the Republican Legislature of New York.

What I plead for is that we not be deceived over a misunderstanding or by misrepresentation of this issue and fall into the crushing embraces of the Republican Party which is the historical, political, and economic enemy of the South.

You know how the South has grown under 16 years of Democratic administration. You know what Franklin D. Roosevelt did for southern industry, agriculture, labor, for the aged, for welfare, for women, for children, for the physically handicapped, for public power—for the whole South. You know how things were in the South before Roosevelt came in, under the Hoover administration. I don't need to remind you of those sad days—of a South as prostrate almost as when the Lancelot of the Confederacy sheathed his shining sword at Appomattox. I don't need to remind southern businessmen and farmers that when they fought for lower freight rates to northern markets it was Gov. Thomas E. Dewey, of New York, who led the fight against them. I don't need to remind you how Republican administrations tried to strangle your Tennessee Valley and the TVA; I don't need to tell Alabama farmers of how Republican agriculture legislation in the last Congress cut down parity and the support prices for cotton, corn, and peanuts and tobacco and rice, and that this legislation alone will take hundreds of millions of dollars away from southern farmers. I don't need to remind southern labor that if the Republicans gain full national power they will drive the Taft-Hartley dagger all the way into labor's heart. They will strangle social security; turn over the TVA again to the private power companies.

Republican rule meant depression under Hoover. It will mean a worse depression under Dewey. Republicanism will mean pushing the South back down the hill. Following off after either the third or the fourth parties means Dewey and depression—nothing less—nothing more. Don't be deceived by those who cry "wolf" against Truman but who also just as loudly cried "wolf, wolf, wolf" against Roosevelt, once or twice or maybe even three times, and, strangely, the very men who clamor States' rights and their brand of democracy will not let you vote in Alabama for the President of the United States if you want to vote for the nominee of the Democratic Party.

Mr. President, I interpolate, that is a strange inconsistency, that certain people who denied their people the right to vote for the nominees of the Democratic Party, including the President of the United States—they are not in the Senate, but in the State—would support the position of the minority in this matter.

I read further:

You know that in those Roosevelt elections many men with a lot of corporation clients and big business support in the South voted against Roosevelt behind the false facade of States' rights.

Mr. President, I interpolate, if I must take my choice, I am not so much interested in the preservation of State wrongs as I am in the adequate protection of human rights. With affection and the deepest earnestness, I say to my fellow southerners, history will condemn you if you stand persistently as the uncompromising champions of those who would perpetrate wrong in the name and behind the false facade of States' rights.

Mr. President, I had two grandfathers who wore the gray and fought for a cause which was lost 90 years ago. Human slavery was wrong, condemned by a just God to ignominious oblivion, and they to die by the sword who would perpetrate it or defend it. They were against the stream of time, Mr. President. I honor them out of the depth of my heart, but they were wrong.

I say today, Mr. President, that it is legal discrimination—and I am not talking about anything else—to say to a black man, "You have not an assured trial by jury." That is wrong. The God with his protecting bosom who hovers above and shields the Anglo-Saxon is also the God of the humble African, and the law that does not, from the majesty of a Nation's might, give him comparable protection, is an ignominious, hypocritical, false facade of pretense.

Mr. President, I say that I cast my lot with human rights rather than for the preservation of State's wrongs, let the consequences be what they may. Others claim the right to speak with candor. May I not exercise the same privilege?

I say, Mr. President, the South could get concessions if it came here with a proposal of compromise, not of unreasoning and persistent obstruction. Senators are not wedded to the bills we have heard mentioned, in any form that is unreasonable. I cannot believe Senators would be open to persuasion by their colleagues on every other subject and deaf to their entreaties on these matters.

Mr. President, I regret to say that my colleagues of the South do not say to us "Meet us in fair compromise." They say, as we said to the enemy in a foreign land, "Thou shalt not pass," even to the Senate of the United States when it is attempting to amend its rules so that it may transact its business against the day when they assume it might make a decision which they would not like. I said to these fellow citizens of my native State of Alabama in Montgomery, in the campaign of last year:

You know that in those Roosevelt elections many men with a lot of corporation clients and big business support in the South voted against Roosevelt behind the false facade of States' rights. They did not want the Federal Government to give the public cheap power. They did not want the Federal Government to help southern workers get fair wages.

Mr. President, I have no disposition to be presumptuous. I possess no merit worthy of mention. But I do have a vivid memory that in 1938 I fought a campaign on the issue of the minimum wage law. With all honor and deference to my respected southern colleagues, I do not recall that one of them was in accord with me or voted with me in the Senate on that just and wise measure. But I think later they have come to appreciate the wisdom of what we then did, for I have never heard of any proposal to repeal the law, although not all of them have been anxious to increase the amount, as I think we should at all times.

If today there exists a tragic difference between us, I have to be mindful of the fact that it is not the first, because when I came to the Senate, owing no allegiance to Roosevelt or any other President, sensible in my heart of no duty except to try to be a good Senator, I soon discovered, I thought, where human right and human progress lay, and to the best of my humble ability I identified myself with Franklin D. Roosevelt and what he was trying to do. My only regret is that I could not help more.

I think that is the future for my South. No part of America needs Federal help more than we. There are no more glorious people than ours. They wish to upraise the Nation.

When I hear what is said in the Senate about the President of the United States I cannot but recall a sight I saw only day before yesterday in one of the great cities of Florida, Orlando, when the President of the United States, within my sight, rode through what the newspaper headlines said were 50,000 cheering people lining 8 miles of highway and streets from the airport to Rollins College where he was the recipient of the degree of doctor of humanities. I did not hear hisses and catcalls. I did not hear epithets and denunciations hurled against him. The people seemed to receive him like any honest and sincere President seeking to do his duty—a great friend and leader.

I sometimes wonder if the people would feel as they do about some of these matters if we, their friends in whom many of them have confidence, would tell them the truth, instead of letting them hear the faults from their own enemies, those who have not always—I speak only of private interests, not of any Senators, of course—been the advocates of their best interests; if they could be told the facts instead of letting the words descriptive of these measures come from those who distort them.

As I said, I was speaking to the people in Montgomery about their future lying with the Democratic Party, and I did not mean with any offshoot of the Democratic Party; I meant the Democratic Party that had a convention at Philadelphia, that adopted a platform at Philadelphia. I did not go off to some other State only, I made 15 speeches in my own State supporting that President and that party and that platform, and I talked about civil rights in every speech I made, as I recall, but I explained the matter as I have here; that it is a falsity to say the President has proposed the abolition of the practice of segregation generally in the South. He has not. I go further and say that the Congress of the United States, in my opinion, possesses no power to make all the children of a community go to a given school, if there are other schools there of comparable quality and character open to them. It is only when we do not have but one school that colored children have a constitutional right to go to that school.

I challenge anyone to show me any decision of the United States Supreme Court which says if we have school A and school B and school C, and local law says that white children shall go to one school, and yellow children to another, and black to another, that the Federal Government, if the local facilities are at all comparable, can change that local requirement and make them all go to the white school. I have never seen any Member of this Senate seriously endeavor to bring about such a thing. On the contrary, we in the Senate passed the Federal education bill, with bipartisan support behind it. Therein we said the contrary. We said in that bill which we passed that not only do we not interfere in local affairs, but we put the provision in this law that the Federal Government shall not do so. Under that law providing for Federal aid the executive branch of the Government has nothing to do with the curriculum, with the faculty, with the schools the children go to, or who goes to certain schools. Those are local matters.

Yet, Mr. President, it is being said that the civil-rights measures mean that colored and white must be received in the same swimming pools. That is not true, if the colored have another one they can go to. If a swimming pool is built with public money, and the colored people and the brown people pay a part of it, they are entitled to swim in it. But if another one is provided for them out of public money, it reasonably follows, and we believe it is in the public interest to say, "You colored can swim in that one, and you whites can swim in this one."

Mr. President, if the truth were known by the people of the South about what the law is the whole civil-rights question would be regarded differently.

Now what about the anti-poll-tax proposal? I said in 1941, when I introduced the anti-poll tax bill, that it was framed upon somewhat of a new theory to apply to primaries as well as to general elections, to forbid any local authority from requiring a poll tax as a condition precedent to voting in a Federal election only. Only a Federal election. It has nothing to do with State elections, or local elections. But I maintain, Mr. President, that the Federal Government possesses the power to protect the integrity of Federal elections. I maintain that if a State says, "You have got to have a thousand acres of land before you can vote for Senator," that if it is not held to be invalid in the courts, Congress can forbid it. If we can forbid the requirement of a thousand acres of land as a prerequisite to voting, we can also forbid the requirement that an individual pay a dollar as an odious poll tax in the exercise of the franchise to vote, which I believe to be the duty as well as the privilege of the citizens.

I say that all the bill does is to provide that a citizen going to the polls for purpose of voting for a Senator, or a Representative, or an elector for President or Vice President, cannot be made to pay a local poll tax. That no longer, if it ever were, is a qualification. I know what the language of the Constitution is. But I cite to the Senate the case of the United States against Classic, which is later than the Breedlove case, the Pirtle case, and others. In that opinion the Supreme Court of the United States, speaking through Mr. Justice Stone, said that the right to vote for a Member of Congress is a right protected by the Federal Constitution, and that decision has never been reversed and has been followed in numerous cases since it was made. If it is protected by the Federal Constitution, whose duty is it to see to it that that right is implemented, if not the Congress of the United States? If that be a part of the Federal power, why should we not go to the defense of such a right? I venture to say that if a Federal statute forbidding the requirement that a poll tax must be paid in order that a citizen may vote in a Federal election comes before the Supreme Court, the Supreme Court of the United States will uphold it.

Why does not the minority which claim such a measure is constitutional refer it to the arbitrament of the law? Is not that good citizenship? Let them vote as they will. But let the Senate eventually decide. No, Mr. President, they put their power above that of the Congress, above that of the majority of the Senate. They say, "You cannot even consider an anti-poll-tax measure here. If we can catch you making a motion to bring it up, we will start a filibuster in time to stop it." That is the history of the situation. I do not say it with disparagement. I do not say it in any derogation of my colleagues, but that is the fact from the standpoint of parliamentary history, as it has been made here in the Senate. So I say the bill may not be good policy. Opinions may honestly differ. But the Senate should have the right to act upon it as it may determine.

Senators have told us that the poll tax is fast disappearing. Yes; thank goodness, it is. All honor and credit to those who have been making it possible for it to disappear. But I do not deny some credit for that progress to the often announced and persistent policy advocated by a large segment of the Government of the United States. I believe that agitation in the Congress has also been a part of the motive power behind the progress made in the several States in the abolition of the poll tax. Perhaps we, too, have done some good by agitating these emancipating proposals.

Let me add a further observation on that subject. Go to the records of Louisiana since the poll tax was abolished, and see the percentage of increase in women voting. I think it will be found to be approximately 75 percent. I have said before, and I am not ashamed to repeat it, that I was born in a humble house on a small farm. What was true of my mother is true of many other mothers. They do not always have even a dollar lying around to take down to the courthouse and give to the clerk at the appointed time. Usually it is $2, because they must pay for 2 years. There is more than one family to whom in a poll tax State $2 means a vote, and a child does not get a pair of shoes.

So I say that payment of a poll tax is no longer a qualification to vote. In my State, with the able advocacy and leadership of my distinguished colleague in the Senate [Mr. HOLLAND] the Legislature of Florida abolished the poll tax in 1937. I consider that action was subsequently responsible for my election in 1938. Perhaps that is proof that it should not have been abolished. I allow for a difference of opinion on that subject, although I assert the right to have my own. In the election of 1938 the vote in the Florida white primary jumped 100,000 over the election of 1936, after the poll tax was abolished in 1937. We know what class is primarily the beneficiary of the removal of such a burden. It is the ordinary, average citizen of America.

Mr. President, I have said something about the anti-poll-tax bill which I think the Senate might consider; and if we adopt this rule change it may eventually be possible to bring it up and debate it and decide it one way or the other.

I have spoken about the antilynching bill. It is said by those who oppose it that it is a discriminatory, anti-Southern law, and that it will apply to those who lynch a Negro in the South, but leave guiltless and harmless those who may murder a gangster in Chicago, for example. Those who say that have not seen the bill which was last reported from the Senate Committee on the Judiciary. The Senator from Michigan [Mr. FERGUSON] was chairman of of the committee. The committee made a thorough investigation, with a bipartisan approach, into the power of Congress in this sphere. It was held that the only way that the Congress can enter this field is in respect to officers, State or Federal, who willfully conspire—and that is the language of the bill with the lynch mob. The Judiciary Committee, in its latest report, says that Congress cannot legislate on the subject unless a sheriff or his deputy, or a United States marshal or his deputy, willfully conspires with a lynch mob.

Mr. President, one of President Truman's recommendations was that we strengthen the civil-rights section of the Federal statutes. That is a statute adopted in the post-Civil War days. It provides that it shall be a Federal offense to deprive a citizen of a right guaranteed by the Constitution of the United States. Let me cite a case which happened in my State.

According to the evidence in the case, a constable in a little village had a personal difficulty with an old Negro. On more than one occasion they had had strife. Later, so the evidence disclosed, the constable got this Negro out on the Suwannee River bridge and threatened him, and made him jump off. Later his body was found hanging in the bushes down the river.

The local grand jury did not indict the constable. He was a white man, and his victim was a Negro. I do not know of any other reason. There was no record of the reason in the proceedings. I do not question the patriotism of those people. However, the fact is that the grand jury did not indict the constable. He was later indicted by a Federal grand jury and tried in the Federal court. He

was sentenced to a year in prison, because that was the maximum under the civil-rights statute—murder, and a year the maximum penalty. Judge Waller, my former law partner, wrote the decision for the United States circuit court of appeals. The court affirmed the conviction and the sentence of a year imposed by the court.

I realize the problem of superimposing Federal power upon the State, but I say that case after case worthy of consideration has occurred. So, Mr. President, it is a subject worthy of the Senate's thinking and prayerful regard. I do not know the answer, but I do know that there should be adequate power in the Federal Government when that power may properly be invoked to protect the constitutional rights of those who are citizens of the United States as well as citizens of the several States. Sometimes we forget about the dual sovereignty. Citizens of the United States are citizens of the State in which they were born or naturalized, and also citizens of the United States. If the State has its rights, so has the Federal Government.

In connection with the civil-rights question, I intend to vote for the anti-poll-tax bill. That bill as I introduced it, went to the Judiciary Committee in 1941. A subcommittee was appointed to consider it. The chairman of the subcommittee was Senator George W. Norris, of Nebraska, a greater figure never served in the Senate. The subcommittee made some amendment in the bill, and it has ever afterward had substantially that form, in its passage through the House and its subsequent consideration in the Senate.

I shall also vote for the anti-lynching bill if it ever comes up, provided it follows the general tenor of the investigation and the bill reported by the Senate Judiciary Committee, or satisfies my mind as to its constitutionality.

With respect to the FEPC, I do not know what I shall do until I see the bill. I recognize the delicate line which is involved in that legislation. However, in my opinion it is basic Americanism to say that employment or discharge shall not be predicated solely upon race, religion, creed, or national origin. I do not know of anything un-American about that. It may be that it is not wise to lay down any standards of employment and discharge, that it is an undue interference with what is the fair prerogative of the employer.

But we have been telling some employers who have been denouncing the labor unions before our Committee on Labor and Public Welfare, and scholars on the subject, like Dr. Feinsinger, of the University of Wisconsin, Mr. William H. Davis, an able author and a most experienced man in this field, and Mr. Leiserson, one of the most eminent authorities on labor-management relations, have been telling them, that if they continue to insist on the protection of the individual against his labor union, they might get ready to experience legislation by Congress curbing their power to hire and fire except upon meritorious standards. So, Mr. President, an FEPC law may not be wise. That is the reason why we have reported out to the Senate the kind of labor bill we have. We say, "Stay out of the regulation of management, but at the same time stay out of the internal regulation of labor unions. Give us the latter, and we will later give you the former. Be assured of that. But we oppose both."

So I say it may not be wise, although not because it is a race matter, to enter into the field of interfering in respect to the hiring and firing of employees by employers in this country. I reserve an open mind on that matter.

As to these other matters, which are not so vital, I have already said that I think obviously the Congress has the power to regulate interstate commerce, and, of course, the power to control the conduct of the armed forces.

These measures may not be wise. Honest men may differ regarding them. But how can anyone rightfully deny to the Senate the privilege of considering these matters if it chooses to do so?

I read further from my Montgomery speech:

> I say further that some persons did not want the Federal Government to protect the small investor or the farmer against northern speculators with whom those persons were tied in, so they used a sort of States' rights argument against the shield of the public welfare.
>
> Mr. President, the South needs more, not less, of what it has been receiving in the way of Federal aid. The South demands a Government that will fight against monopoly, not a Government which will make it more dominant. Let us beware—

Mr. President, I said to my fellow southerners—

> of false prophets and false leaders.
>
> Remember the words of the Scripture:
>
> "For where your treasure is, there will your heart be also."
>
> When we hear these voices clamor against the old Democratic faith and party, let us ask where their interest is, and then we shall know that their hearts are there, too.
>
> Remember—
>
> "He whose bread I eat, his servant am I."
>
> When we hear these voices raised against the old Democratic principles, let us ask whose bread they eat, and then we shall know whose servants they are.
>
> I call not only upon all southerners who have voted in the ranks of democracy, but upon all liberals, as well, even the erring ones, to come back to the party which is the home of the liberals, the party of Jefferson and Jackson and Woodrow Wilson and Franklin D. Roosevelt and, yes, President Harry S. Truman, who has followed in their footsteps, with a courage they would have commended.
>
> Yes, I have been a Democrat; I am a Democrat; I shall continue to be a Democrat. Toward my party I would proudly express the sentiment of him who said:
>
> "Woodman, spare that tree!
> Touch not a single bough!
> In youth it sheltered me,
> And I'll protect it now."
>
> I say to my fellow southerners, for a century and a half the Democratic Party has sheltered you. I know the quality of your own loyalty, and that you will protect it now.

Mr. President, I have ventured to trespass upon the kindness of my colleagues long enough to say that I have shown some consistency upon this subject. I do not want the Republican Party justly to be able to claim that Republicans alone are the champions of human liberty. Let us see how they vote when these crucial issues come to a test, so as to see whether they are more interested in perpetrating a division in the Democratic Party or in carrying out their own platform pledges. President Truman has raised a standard to which all good men may repair. Let us see how many of our honored Republican colleagues will repair to that standard, which they have professed to embrace for so long a time.

I have spoken of my party. I do not want the Democratic Party to be called the citadel of reaction. It does not deserve that appellation. Our progress stretches over more than a century and a half. I want the Democratic Party to give progressive democracy to the people of the United States. I want all the other programs that are being clogged and impeded by the filibuster which is now impeding the flow of the stream of legislation to have a chance to move. I want the dam to be broken; I want the legislative stream to run. In this Congress we can give America and the world more democracy than they have ever had, if we shall put through this program.

I am beginning to wonder, Mr. President, whether the fears of some persons are well founded—namely, that lurking in the background of this filibuster is a determined opposition to a large part of the President's program, as well as to the civil-rights program. I do not charge it; I do not state it or assert it; but I say I cannot help but wonder whether far in the background such an opposition may make its visage appear.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. PEPPER. As soon as I have concluded, I shall be glad to yield.

Mr. President, on the other side of the aisle I wonder how many there are who may play fast and loose, or, rather, I would prefer to say, who may not aid in the effort to expedite the Senate's business or to improve the Senate rule, and who will be gratified at least that this unhappy controversy and conflict may impede the progress of legislation which they have almost consistently opposed. I hope they will by their vote follow some of their splendid leaders who have been in the very forefront of this fight, so that we may truly make this a bipartisan victory for the Senate and for the Constitution and for democracy here and elsewhere in the world.

Mr. President, I add only one other comment. I hold in my hand a report on the Ninth International Conference of American States. I also hold in my hand the Universal Declaration of Human Rights. These were entered into by representatives of our Government; they were negotiated by our spokesmen. I believe they have already been reported to us, although we have taken no action on them.

Let me read from the Bogotá declaration of the rights and duties of man:

> ARTICLE 1. Every human being has a right to life, liberty, and the security of his person.
>
> ART. 2. All persons are equal before the law, and have the rights and duties established in this declaration, without distinction as to race, sex, language, creed, or any other factor.

That is what we said at that international conference. Do we believe that? Do we practice it here at home? Would we be embarrassed to have foreigners ask us about it? Mr. President, please remember, again, that I am talking about equal treatment before the law. No man has a right to come into my home, save when I invite him to cross its threshold. A man's home is still his castle; his goods and effects are still immune from undue search and seizure. His liberty and person are still inviolate under the law. But, Mr. President, social relations and contacts are personal; yet I have had some persons ask me, in Florida, "Is it true that President Truman is advocating that we have to take colored people into our sewing circle, into our garden club, into our church, into our civic club? That is what people have been telling us." I said, "Of course not. The President never recommended it. Congress could not require it, should it desire to do so."

I am speaking about rights before the law, rights to vote, the right to vote without a poll tax which discriminates against the poor of every color and creed; the right to trial by jury and to due process of law even against lynchings, and, if not assured by the States, then by the Federal power, whose sovereign the citizen partially is, under the Constitution; the right to regulate interstate commerce in reasonable respects; the right to regulate the transportation of passengers across State lines in public conveyances, under the interstate-commerce clause; the right to provide in the Department of Justice a civil-rights section for investigation and inquiry; the right of Congress to set up committees to deal with civil rights if it chooses to do so. The other document is entitled "universal declaration of human rights," declared by the United Nations Assembly. Mrs. Roosevelt was the chairman. In this declaration there are also affirmed the personal rights which we preach, which I am sure we all want to practice. I take, for example, article 6:

Everyone has the right to recognition everywhere as a person before the law.

Are we going to continue to be embarrassed in international conferences because we do not really apply democracy in America? There will be difficulties. From my own life experience, from generations of which I do not know before me, resident in the sacred soil of the South, I know the problems, the difficulties. I do not sympathize with extremists, but I affirm that ours in the South is a democratic people. We want to do right; we believe in progress, including human progress. Our people are of great heart and generous nature. The warm compassion of comradeship and Christian fellowship surges through their hearts. They are not the enemy of any class, of any color, of any creed; and if sometimes we misinterpret the things they cherish, if sometimes we misinform them on public issues and excite their emotions, and they appear to lack something of that blessed compassion which is Christian in its character, it is not because it is their true character, for there is no braver, finer, more generous and understanding and loyal people in all the world than are the people of our Southland.

I am taking far more time than I had contemplated; for which I humbly ask the indulgence of my colleagues. I have attempted to show that there is involved in the discussion the basic question of implementation of the Constitution of the United States. There is also involved the basic necessity of the power of the Senate to change its rules.

There is manifestly and immediately at stake the crucial question of the duty of the Government to protect and to further the principles of democracy here and throughout the world. May I, in closing, quote words, the eloquence and exalted character of which have been a challenge to me ever since I heard them. They fell from the lips of the Chaplain of the Senate, Rev. Frederick Brown Harris, not only a man of God but blessed with almost divine genius. As part of a prayer which he raised here from this rostrum, Dr. Harris laid upon each of us a compulsion we should all in our own way seek to observe and discharge, when he said:

May the servants of the public will be wise interpreters of Thy eternal law, brave spokesmen of Thy will, and of the truth which sets men free from ancient wrongs.

Mr. President, I ask unanimous consent that there be printed at the conclusion of my remarks several editorials regarding the subject we have been discussing.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times of March 7, 1949]

MAJORITIES HAVE RIGHTS, TOO

After a week's gentlemanly skirmishing the administration's fight to reform the cloture rule in the Senate has made no progress. Mr. Truman's own followers have rejected his ill-advised proposal to invoke cloture by majority vote. The pressure of important measures, which ought to be acted on with the least possible delay, may tempt them to give up or at least postpone a serious attempt to tighten up the existing cloture rule so that a two-thirds vote may at any time set a limit to debate. If this happens it will be a victory for about 20 southern Senators who claim the right to prevent the Senate from voting on bills they don't care for. The bills they don't expect to care for at this session are civil-rights measures promised in both major-party platforms and therefore presumably accepted by far more than a two-thirds majority of our citizens.

The parliamentary procedures involved are enough to confuse anybody who was not weaned on Roberts' Rules of Order. But there need be no confusion between full and free debate, on the one hand, and the machinery of the filibuster, on the other hand. Anyone who has ever seen a filibuster in operation, or who has even read about it in the newspapers, can tell the difference. A filibuster is not honest debate. It is an attempt to obstruct legislation by unfair means.

Fifty-six years ago the late Henry Cabot Lodge made some pungent comments on the relative sanctity of debating and voting "Of the two rights," he said, "that of voting is the higher and more important. We ought to have both, and debate certainly in ample measure; but if we are forced to choose between them, the right of action must prevail over the right of discussion. To vote without debating is perilous, but to debate and never vote is imbecile."

The Senate will not be in legislative session today. Tomorrow the fight will be resumed. We hope the administration Democrats and their Republican allies will make it a real fight. After all, majorities have some rights, too.

[From the St. Petersburg Times of March 6, 1949]

QUESTION BEFORE THE SENATE IS WHETHER PEOPLE WILL TOLERATE THE RULE OF A MINORITY

(By Henrietta and Nelson Poynter)

Filibuster—a freebooter; buccaneer; a lawless military adventurer who invades a foreign country—to act as a filibuster; to delay legislation by obstructive tactics.—Webster's Dictionary.

Twenty-one southern Senators are now busy preventing the people of the United States from expressing an opinion. The notable exception is CLAUDE PEPPER, of Florida.

Senator HOLLAND held the Senate floor for 5½ hours Thursday.

The question at issue is not the civil-rights program; it is whether a minority group can prevent the Senate of the United States from discussing and voting on proposed legislation. The rules of the Senate permit a single man to hold up the whole process of government. The proposal now being filibustered is to change them to allow the majority to be heard.

These 21 willful men are admittedly holding the floor to prevent a majority of the duly elected Senators from expressing an opinion. This time the problem is civil rights, but the Versailles Treaty was filibustered and the World Court—to name two notable examples. The filibuster is the triumph of a minority's will over the judgment of the people of the United States.

AS SIMPLE AS THIS

The present proposal to change the rules merely asks that at any time two-thirds of the Senators could vote to stop one man from talking. Senator ELBERT THOMAS, of Utah, dramatized the point by saying, "Any country that can send its people to war on a bare majority vote ought to be ashamed of itself when it takes a nearly unanimous vote to change a rule of procedure in the Senate."

The southerners are not alone in trying to maintain the autocracy of the Senate. The last test to limit debate was in 1946 on the anti-poll-tax bill, and such Republican stalwarts as MILLIKIN, of Colorado; BRIDGES, of New Hampshire; YOUNG, of North Dakota; and GURNEY, of South Dakota, voted against breaking the filibuster.

The Republican maverick, Senator LANGER, of North Dakota, has now changed his mind and says he will not vote to change the Senate rules. Some weeks ago in Washington he told why:

"Charlie McNary gave me some good advice years ago, and I've decided he was right. 'Don't ever vote for cloture,' he said, 'you may want to talk yourself some day.'"

Cloture is defined by Congressional Quarterly as "The process by which debate can be limited in the Senate. A cloture motion, which applies only to a bill or resolution, must be presented with the signatures of 16 Senators. It is voted upon 1 hour after the Senate meets on the second day after presentation. If it is agreed to by a two-thirds vote, each Senator thereafter is limited to 1 hour's debate."

In other words, the Senate is then allowed to talk for 96 hours; and if cloture were permitted, the present filibuster would have been over in 21 hours and the work of the country could go on. Nothing but public indignation is likely to make the Senate

change its rules. The cloture proposal itself was adopted in 1917 only because the country became so aroused over a successful filibuster against Wilson's armed-ship bill, which would have authorized the arming of merchant ships shortly before the United States entered World War I.

The fight to stop Senators from talking as a delaying tactic has been going on for over a hundred years. Henry Clay tried to do it in 1841 and Stephen Douglas tried again in 1850. Oscar Underwood, of Alabama (remember "24 votes for Underwood," who worked so hard to be President in 1924?) repeatedly attempted to cut the Senate talkathon.

But the Senate is still talking. And while the country waits for decisions on war and peace, housing and labor, we are treated to the spectacle of the son of the "Kingfish" threatening to match his father's record. We don't need recipes for pot likker from the United States Senate. We need democracy. And only the people can convince our Senators that they are not the aristocracy of the country—that they, too, are subject to majority rule.

[From the Washington Post of March 7, 1949]

CONSTITUTIONAL ISSUE

The first week of the filibuster in the Senate attained some aspects of a momentous constitutional debate in spite of the fact that the southern Senators are determined to defeat any limitation of debate by continuous talking. Much was said about the nature of our Government, the function of the Senate, and the intellectual climate that democracy must have in order to flourish. To say the least, the discussion gives added perspective to the country's civil rights problems. Its only deplorable aspect to date has been the announced intention of the minority to make the outcome depend not upon reason and persuasion but upon the coercion of endless talk.

We cannot agree with those who say that the issue before the Senate is the protection of minority rights. To be sure, the Senate is a bulwark against overhasty legislation; we hope it will always be such. In a free country there must necessarily be checks upon the tryanny of the majority. Individual rights must be upheld by the courts against unconstitutional legislation. And aside from constitutional rights, any policy closely touching the lives of the people is likely to fail, as prohibition did, if it is imposed upon a large and bitterly antagonistic minority by Federal force. All these factors must be carefully weighed when the Senate comes to debate the various separate measures in the President's civil-rights program.

But that bridge can be crossed only when Congress comes to it. The question now before the Senate is merely whether or not rule XXII shall be amended so that a two-thirds majority may end debate, with allowance for every Senator to have his say even after cloture has been invoked. Some Senators have talked as if the proposed amendment would deprive their States of representation in the Senate. On the contrary, it would make such representation more meaningful by depriving a relatively small group of the power to jam the legislative gears. It is absurd to say that an effective rule against filibusters would impinge unfavorably upon our constitutional system. The Constitution specifically gives each House of Congress the power to determine its own rules. The founding fathers must have concluded that this power would be used to save the Senate as well as the House from becoming an "imposing spectacle of impotence."

The only candid argument against the proposed change in rule XXII that we have heard is that if the Senate is freed from filibusters it may make some unwise decisions. But that is true of any form of democratic government, or any other type of government. The real question is whether greater mistakes will not be made by inaction forced upon the Senate by a minority than action supported, after due deliberation, by the majority. The way of popular government is to debate and let the majority decide. When unwise decisions are made, they will have to be corrected by experience. But under no circumstances can we permit the door to experimentation to be indefinitely closed by a willful minority without sacrificing the very essence of American constitutional government.

When rule XXII has been amended, Congress will have to face Mr. Truman's civil-rights proposals, not as political slogans, but as subjects for practical legislation. It may then decide, for example, as we think it should, that a constitutional amendment is the proper means of abolishing State poll taxes. But in no event can a talkfest to prevent Congress from taking up this or any other problem be justified. We have here not majority coercion of the minority but minority coercion of the majority. It is a great constitutional issue, and, as we see it, the outcome will determine whether our system of representative government can be reasonably adjusted to the requirements of the times in which we live.

[From the Washington Star of March 7, 1949]

FIGHT OVER FILIBUSTER—DEFENSE SEEN PRETENDING SIMPLE ISSUE IS ACTUALLY BASIC THREAT TO REPUBLIC

(By Thomas L. Stokes)

A lot of dust and noise and high-level constitutional confusion, mixed with ordinary political sand, has been kicked up to obscure the very simple issue involved in the current Senate battle over proposals to curb filibusters.

All that the Senate Democratic leadership is trying to do is what the Senate thought it was doing 32 years ago when it adopted the rule, rule 22, which permits limitation of debate by a two-thirds vote on presentation of a cloture or closure petition signed by 16 Members.

That rule has become unworkable under a decision from the chair in the last Congress by then President pro tempore of the Senate, Senator VANDENBERG, Republican of Michigan, that it did not apply to motions to take up a bill. This allows a filibuster against a mere motion to bring a bill before the Senate for consideration, so that the legislative process can be completely paralyzed. The current southern filibuster, correspondingly, is against a motion to take up a resolution reported by the Rules Committee which does nothing except make rule 22, adopted in 1917, applicable to filibusters against such motions.

The Michigan Senator publicly regretted his ruling, but said it was all he saw he could do. He urged the Senate to close this loophole, whereupon Senator TAFT, Republican, of Ohio, pledged his party to do that at the first opportunity in this Congress. Democrats, in control of this Congress, have accepted that responsibility.

ISSUE IS SIMPLE

That is the only direct issue involved in all the uproar in the Senate. It is very simple, yet it is presented as complex. All sorts of circumstances have been exploited for politics' sake to confuse this simple issue and blow it into something titanic on which our Republic might stand or fall, which is, of course, pure nonsense.

The southerners, alone, are simple and direct in purpose, which is to stave off, by any means available, the consideration of civil rights legislation, though if there ever was a mandate on any subject there was one on this issue in the last election. For both major parties were committed to civil-rights legislation.

Republicans have been acting very strangely and very timidly for all their bold public pronouncements. It will be to their advantage naturally in the congressional elections 2 years hence if President Truman has failed to realize at least a part of his civil rights program. Some of them are very much aware of this political factor and are cuddling up with the southern Democrats, an old familiar alliance, with the idea also of nourishing this alliance against other Truman measures later.

They sought an excuse first in the fact that it was a Republican, Senator VANDENBERG, who made the ruling which will become the first test, and they must stand by a party man, mustn't they? Vice President Barkley is expected to reverse the VANDENBERG ruling, when the issue is raised soon, and hold that the cloture rule is applicable also to motions. That will bring an appeal from the Chair. A number of Republicans are planning to join southern Democrats to overrule the Vice President, despite the TAFT pledge of the last Congress.

FAVORS MAJORITY CLOTURE

Republicans also have capitalized on President Truman's remark at a press conference that he favored imposing cloture by a mere majority, instead of two-thirds. That may have been impolitic in the midst of a fight, but it was honest. There are only a handful in the Senate for majority cloture, logical as a majority rule might seem in a democracy, so Republicans are only building up a straw man here, and they know it.

President Truman deserves high commendation for ordering an all-out fight on the filibuster, which holds the blockade against his civil-rights program, for he takes certain risks about the rest of his program. But it overshadows all else. Until it is settled, nothing really is settled.

There comes a time when a man must fight, and the President has recognized that clearly. The filibuster could be broken if his Senate leadership was sincere about it, hammered right through, and kept the Senate in session day and night. That is, if they are helped by Republicans, as they should be. For this is a national issue beyond party lines.

Mr. MYERS. Mr. President, it is always extremely difficult to follow the distinguished Senator from Florida [Mr. PEPPER], but I do not think it could ever be more difficult than to follow him than now after he has just concluded such a splendid and stirring address.

The Senate of the United States is now in the midst of debating an issue which far transcends a mere change in our rules.

I think that is conceded by most of us who stand committed to effective cloture, effective machinery for terminating debate when debate has ceased to be informational, has ceased to be contributory to a reasoned decision on the basis of the facts, and has become merely obstructionist, dilatory, time-consuming, and valueless in the determination of fact.

Of course, those on the other side of the issue who have so far participated in this historic debate are correct when they have stated—let us say have warned—that great issues beyond the ostensible issue of revising Senate rules are involved in the debate.

Mr. President, let us face it. The debate now proceeding in the Senate of the United States is round 1 of the showdown on the issue of civil rights. Let us

recognize it as being that, and let us not pretend otherwise.

Several Senators in opposition to the change in the rules of the Senate take the position that such a change would restrict the rights of some of the small States. They are of course sincere in that position. Frankly, however, I am not aware of any plot on the part of a combination of large States to destroy the small States or to gang up on them. It is not the Balkans of Europe with which we are dealing; it is the United States of America; it is a Nation whose people by and large recognize that when one area of the Nation seeks to profit at the expense of another, the result is disadvantageous to both. We have here issues which are often fought along geographic lines, but they are not issues of large States versus small States; they are issues in which the large States and small States in any one area may find themselves opposing the large States and small States in another area. And there are very few such issues.

There are issues in which industrialized States, large and small, and agricultural States, large and small, may see a problem somewhat differently; although, there again, large States like Pennsylvania and New York and California and Illinois, with great industrial capacities, also have tremendous agricultural production. I myself firmly believe, as I think most Americans do, that the so-called conflicts said to exist between the farmer and the industrial worker over economic issues are manufactured by certain special interests which breed upon division in the population. These alleged conflicts are not inherent at all. Labor and agriculture learned in 1948, for instance, that they both depended upon a liberal Congress for the full realization of their goals of a prosperous and balanced economy, and so farmers and industrial workers joined in electing the Eighty-first Congress and in electing a President who sees no conflict between the economic aims of the farmer and the economic aims of the industrial worker.

So, Mr. President, I am puzzled by the opposition of certain Senators to the change in our rules on the expressed ground that the smaller States from which they come are threatened unless the Senate can from time to time be prevented from proceeding with the legislative process.

We are not here today seeking to end the normal right of unlimited debate in the Senate. We are not setting up hard and fast rules, such as exist in the House of Representatives, for limiting Senators to 1-minute speeches or to 5-minute speeches under the rules and limiting debate on the vital issues to a few hours.

There is nothing in this change in the rules to prevent any Senator from taking the floor and holding it for as long as he can stand on his feet in order to call to the attention of the Senate and of the country certain facts he may have bearing on vital legislation which he thinks might otherwise be suppressed or ignored.

No, Mr. President, although some Senators may have various reasons for hesitating to join in this long-overdue revision of the Senate rules, reasons other than the issues of civil rights, the fact is that the hard core of opposition here, the backbone of the opposition, comes from those who have one concern and only one concern, and to them it is an overbearing concern. That is that if these rules are changed, then the Senate of the United States and the Congress of the United States finally will be in a position to enact civil-rights legislation.

We have not been able to enact civil-rights legislation—and the Congress has tried many times to do so, particularly in the days since the start of the first Roosevelt administration—because nearly all the Senators from below the Mason and Dixon's line have regarded this legislation as repugnant, un-American, perhaps communistic, and so on. Under the rules of the Senate, whenever a measure containing one of the well-known civil-rights proposals is about to be brought before the Senate—and usually this is known in advance—these Senators have proceeded to tie the Senate in knots, to bring it to complete paralysis, so that not even the routine business of approving the Journal can be accomplished, and so no legislation whatsoever is passed by the Senate of the United States unless and until the leadership of the Senate surrenders——

Mr. RUSSELL. Mr. President, will the Senator yield for a question?

Mr. MYERS. I cannot at this point.

The PRESIDING OFFICER (Mr. McGRATH in the chair). The Senator declines to yield.

Mr. MYERS. And agrees not to take up or seek to take up the particular civil-rights measure involved, be it an anti-poll-tax bill or an antilynching bill or a bill to establish a Fair Employment Practice Commission or to deal otherwise with matters of discrimination for reasons of color, primarily.

Mr. President, I now yield to the Senator from Georgia for a question.

Mr. RUSSELL. Mr. President, I desire to ask the distinguished Senator from Pennsylvania to point out the legislation which has been killed completely, to which he has referred, and to point out legislation on which a vote has not been had on a cloture petition under the two-thirds rule, at some stage of the proceeding.

Mr. MYERS. Mr. President, I refused to yield until I had completed a sentence. The sentence I just read is as follows:

> So that not even the routine business of approving the Journal can be accomplished, and so no legislation whatsoever is passed by the Senate of the United States unless and until the leadership of the Senate surrenders and agrees not to take up or seek to take up—

Any of these bills.

Mr. RUSSELL. Mr. President, the question which I desired to propound to the Senator was: Can he point out the instance and the bill to which the statement he has just made will apply; can he point out an instance in which the Journal was not finally approved, and, at some stage of the proceeding, a vote on a cloture petition was not had? Of course, the Senator knows that the Journal has been debated, but there was a final vote on the cloture petition. The Senator says they had to surrender——

The PRESIDING OFFICER. Is the Senator from Georgia propounding a question?

Mr. RUSSELL. Yes, Mr. President.

The PRESIDING OFFICER. The Chair understands that the Senator from Pennsylvania yielded for a question.

Mr. RUSSELL. The Senator from Georgia was undertaking to elicit the answer from the Senator from Pennsylvania.

Mr. MYERS. Mr. President, I will answer the question. I do not think we need to split hairs. I think the Senator from Georgia is fully aware of the import of my remarks; he is fully aware of what I have said. I repeat that under the present situation it is impossible for us to take up any other legislation until the pending question is laid aside. The opposition has determined that they will continue this debate for 2 weeks or 2 months, if necessary. During that period of time we cannot enact any other legislation, unless we agree to lay this subject aside.

That is the only point I seek to make. I say that under those circumstances we have a filibuster. That is the type of filibuster we encounter most frequently. Its purpose is to prevent the Senate from taking up for debate and possible passage a bill to which some Senators object.

The device of obtaining the floor and holding the floor in order to prevent immediate consideration or immediate passage of a particular bill—meaning that hour or that day—is also sometimes referred to as a filibustering tactic, but I do not think that is involved here. Most of us, at some time or another, have used that device to delay action on a measure momentarily, usually while there are absences from the Senate which we think hurt the chances of a bill one or another of us may favor, sometimes because we think the issue requires more clarification and more public understanding of the facts, sometimes because an individual Senator or a few Senators think that if they can hold off the final decision for a day or a few days at most, they can enlist a great public reaction which would have some influence upon wavering Senators who might otherwise vote differently.

That device, I said, is used frequently. I used it a year ago to hold the floor and prevent a vote on a particular day on a proposal advanced in the absence from Washington of the Senator from Ohio [Mr. TAFT] to extend the title VI provisions of the Federal Housing Act for a full year.

We who opposed that proposal felt that it would destroy our slim chances in the Eightieth Congress of getting through a good housing bill, the Wagner-Ellender-Taft bill, including provisions for public housing, if this one section of it, liberalizing financing methods for builders, was passed independently. I held the floor on the day this proposal was called up because that appeared the only means of holding off the decision until Senator TAFT and several other of the Republican friends of public housing, then out of the city, could return and

be heard. Their voices were heard a few days later on the issue, and the proposal was defeated at that time.

I regard that device as legitimate, and I think most Senators regard it as legitimate. That device is not threatened by these proposed changes in the rules. Under the proposals now before us to provide for termination of debate, the rule would remain the same, that 16 Senators must sign a petition for cloture and that this petition must lie over for two calendar days before it could be voted on, and then each Senator is allowed one full hour for debate. Senators fearful of hasty legislation and who sought to delay action for a reasonable period in order to bring certain facts to light would not have to fear cloture action. It just is not undertaken under those circumstances. Any attempt to steam-roller legislation here on the floor without giving Senators an opportunity to be heard on it is always resisted by the Senate, and cloture in such an instance could not be obtained unless the character of the men who sit in the United States Senate shall have been radically altered. I have seen time and again Senators stand up for the rights of other Senators with whom they violently disagreed. The best recent instance of that was just last June, during the debate on the conference draft bill, when one Senator who had been speaking for many hours and holding the floor against the bill and who then lost the floor under a ruling of the Chair on a point of order, succeeded in obtaining the floor once again for his second speech, when other Senators, favoring passage of the bill, insisted that their colleague be recognized by the Chair and be permitted to proceed.

That unselfish and fair-minded action might have resulted in keeping the Senate in session much longer than it otherwise would have been kept in session, but I think all of us here were heartened by the show of fairness which was accorded a Senator then conducting what the newspapers called a filibuster.

It is not our intention in these proposals to provide for cloture that they should apply to filibusters in the newspaper use of that term. Each time a Senator or several Senators attempt to take more than a few days in the discussion of a vital bill, the newspapers immediately begin referring to the "filibuster."

We have devoted weeks and weeks to certain important issues before the Senate in the past, but they have not been filibusters. When the debate is designed to inform and to plead on the basis of facts, it is healthy, and it is often compelling, that we have extended debate. It is only when the debate is intended to paralyze the Senate and prevent a determination of the issue that it is a filibuster. And that is what we are determined to prevent under these proposals.

Let us look for a moment at the resolution which we are trying to make the pending business of the Senate, namely, Senate Resolution 15, and at my proposed amendment to that resolution. Senate Resolution 15, reported favorably by the Senate Rules Committee, provides merely that the Senate of the United States be permitted to legislate when two-thirds of the Senators present and voting have decided that the debate on any matter—as opposed to any measure—has been a full and complete debate, a debate in which all facts relevant and germane to the issue have been brought to light, a debate in which there has been free expression of all informed views on the issue.

That is all the resolution does. There is nothing mysterious about it. There is nothing sinister about it. It does not embody a new, novel, or revolutionary theory, but one which the Senate over the years has accepted in regard at least to debates on bills and other measures. It is new only in the sense that it would reverse the rulings of some previous Presiding Officers to the effect that this limitation on debate could not apply to matters other than bills and measures—could not apply, that is, to the approval of the Journal, could not apply to motions to take up a bill or a resolution.

My proposed amendment, which I supported in the executive sessions of the Senate Rules Committee when we were considering this matter prior to the reporting out of Senate Resolution 15, and which I intend calling up when amendments to Senate Resolution 15 become in order, does go one step further. It provides that rather than two-thirds of those Senators present and voting, a majority of all Senators, namely, 49 Senators, under normal circumstances, in the absence of any vacancies in the membership, can take the responsibility and have the power to require a termination of debate and to end a filibuster in the Senate of the United States.

Is this a sinister proposal? Is this an attempt to gag the Senate of the United States? Is this an effort to impose silence—compulsory silence—upon individual Members of the Senate of the United States, when, perhaps, they shall be seeking to enlighten the Senate of the United States on facts as they bear upon issues before the Senate? Is this slavery for Senators? Is this a denial of the freedom of speech guaranteed to every American by our great Constitution? Is it any of those things, Mr. President?

Of course not. With due respect to the sincerity of so many opponents of these proposals for giving the Senate a degree of mobility now denied to it, I feel compelled to say that the arguments against effective cloture are window-dressing for a much deeper issue, namely, the issue, as I said before, of whether the Congress of the United States shall be permitted to enact legislation pledged to the people of America by the platforms of both the Democratic and Republican Parties in 1948 and in previous years. The issue, in other words, I repeat, is civil rights.

I would like to read that portion of the 1948 platform of the Democratic Party drafted at Philadelphia last July dealing with civil rights, which was agreed upon first by a small group of about 17 delegates designated by the chairman of the Democratic National Committee as a preliminary drafting group, and then subsequently approved by the 108-member resolutions committee of the Democratic Convention, which included 2 delegates from each State and Territory. This is what that draft said:

> The Democratic Party is responsible for the great civil-rights gains made in recent years in eliminating unfair and illegal discrimination based on race, creed, or color.
>
> The Democratic Party commits itself to continuing its efforts to eradicate all racial, religious, and economic discrimination.
>
> We again state our belief that racial and religious minorities must have the right to live, the right to work, the right to vote, the full and equal protection of the laws, on a basis of equality with all citizens as guaranteed by the Constiution.
>
> We again call upon the Congress to exert its full authority to the limit of its constitutional powers to assure and protect these rights.

I reiterate, Mr. President, that this plank, the so-called civil-rights plank of the Democratic platform, is the way it read when it was agreed upon by the 17-member preliminary drafting subcommittee and by the full 108-member resolutions committee of the Democratic National Convention of 1948. This was before anything new was added on the floor of the convention. This was before the vigorous, all-out floor battle on the convention floor over the addition of two additional paragraphs which subsequently were written into the platform by a vote of the majority of the convention delegates.

I have no intention of pretending that this plank as it was originally drafted and before it was expanded on the convention floor by vote of a majority of the convention delegates had the wholehearted and enthusiastic support of each member of the resolutions committee or of the preliminary drafting subcommittee. Far from it. We had no 5-minute rule, no limitation of debate of any kind in either the subcommittee or the full resolutions committee. We argued this matter out in a democratic manner, allowing free expression of views. There was no gag; there was no attempt at a gag; there was no consideration of the possibility of imposing a gag. Democratic delegates from nearly all the States actively participated in this discussion, and no delegate was limited as to the time he could speak. Every aspect of this issue, for it is all one issue, was thoroughly explored by able speakers. In our preliminary subcommittee, the argument raged for nearly all of an evening and a night. In the full resolutions committee the following day, we were in session from shortly after 2 o'clock in the afternoon until 2:30 or 3 o'clock in the morning of the following day, and although not all of the discussion by any means revolved around this plank, many hours were devoted to its free discussion—and, I might add, to a vote. The vote was had, and the will of the majority prevailed, and this plank was incorporated in the platform as submitted to the convention.

Let me repeat a few of those pledges:

> The Democratic Party commits itself to continuing its efforts to eradicate all—

Mr. President, I interrupt the reading to say that there is no hedging here. It

says we commit ourselves to continue our efforts to eradicate all—

racial, religious, and economic discrimination.

I think that means what it says. It so means to me. It so meant to President Truman when he carried his case for election to the people of the United States. As the presiding officer at those committee deliberations and debates at the convention, I can attest to the fact that those words were recognized as meaning what they say to all members of the resolutions committee. Those who feared the import of those words as they indicated the course which our party would follow in the Congress did not pretend to us that the words meant something else or that they were wishy-washy, or that they were watered down, or that they were any kind of a compromise on this issue of civil rights.

Again, in our platform plank as originally drafted and approved prior to submission to the convention, we reiterated a belief on the part of our party officially as a party that racial and religious minorities "must have the right to live, the right to work, the right to vote, the full and equal protection of the laws, on a basis of equality with all citizens as guaranteed by the Constitution."

The Constitution sets up no first and second classes of citizenship and our 1948 convention platform similarly allows for no such categorization.

The plank says further:

We again call upon the Congress to exert its full authority to the limit of its constitutional powers to assure and protect these rights.

There has been much discussion here in recent days about the constitutionality of some of the civil-rights measures which are to be enacted by this Congress, if this Congress, if Republicans and Democrats alike in this Congress, are to be true to the campaign pledges which they made; if the Congress, that is, is to redeem its promises.

The debate which has been carried on so far has been marked by frequent insinuations that the liberties of the people of America are to be trampled on and destroyed in contravention of the Constitution if the Senate succeeds in fortifying its machinery, its rules, with the power to legislate when two-thirds of the Senators present and voting or, under my proposal, a majority of the Members of the Senate, including those not present or not voting, determine that debate has been full and complete and that time for action, for a vote, has arrived.

Are there, Mr. President, Members of the Senate of the United States who believe that the courts of this democracy have abdicated to the Congress or to the Executive? Is there no protection left in America, Mr. President, should this pending resolution be approved, against unconstitutional legislation? Is our sole barrier to unconstitutional Government in the United States a minority of the United States Senate? Are they alone the defenders of free government in America?

If there should come before the Senate of the United States a measure which seeks to violate the Constitution of the United States, are we doomed, is our Constitution threatened, unless one-fifth of the Senate membership can hold the Senate inactive and helpless indefinitely?

Or, on the other hand, can we tolerate a device in the Senate which seeks to deny us the right to implement Constitutional guarantees of the full and equal protection of the laws for each citizen on a basis of equality with all other citizens?

That is really what we are determining here. We are determining whether the Congress is to be allowed to outlaw the poll tax. Many States have voluntarily abandoned the poll tax as a source of revenue, or worse, as a means of disenfranchising voters. Some opponents of Federal legislation to outlaw the poll tax as a prerequisite for voting in Federal elections pronounce themselves willing to approve the submission of a constitutional amendment to the States on this issue on the grounds that the legislation itself would be unconstitutional.

This issue has been argued and reargued, examined, analyzed, explored, many times in the Congress of the United States over the years and the prevailing view of the majority of the Members of the Congress is that the elimination of the poll tax by legislation is not unconstitutional.

Assuming we may be wrong, Mr. President, granting for the sake of argument that we may be wrong, is there no defense against unconstitutional legislation except the endless talk of a group of Senators able to paralyze the Senate of the United States, and with it, the process of democratic government? Are there no judges in our Federal system who dare defend the Constitution?

Our platform, and the platform of the Republican Party, promises legislation to establish a Fair Employment Practices Commission. This measure also has been denounced in this Chamber and in the other Chamber as unconstitutional, as vicious and un-American, as a Communist plot, as a threat to the public peace.

As I recall, we had during the war a temporary Fair Employment Practices Commission instituted by Executive decree which sought to end unfair discriminations in employment practices, and, lo, Mr. President, the Union stood, the Nation endured, the domestic peace was maintained, and communism continued ineffectual and despised in America.

I have no intention at this time of debating the individual provisions, fair or unfair, good or bad, constitutional or unconstitutional, of the various civil-rights bills which will be coming before this Congress, and which, I trust, will be enacted after full, complete, and thorough discussion and analysis and debate. If this is a filibuster which we now have under way, then I, of course, have no intention of seeking unnecessarily to prolong the debate.

If a cloture petition is filed, as it probably will be this afternoon, to seek to shut off debate on the motion to take up the proposed resolution and to test the rulings of previous Presiding Officers on whether cloture applies in a case like this, there will, I am sure, regardless of the decision of the Vice President in this instance, be adequate opportunity for full discussion of all aspects of the issue before it is resolved. So I do not feel that I am contributing to a filibuster.

I think it appropriate, in view of my previous references to the mechanics of drafting the 1948 Democratic platform, to point out, before the debate goes any further, that so far as this side of the aisle is concerned I think the issue was settled clearly at our Philadelphia convention.

I am not referring to the amendment from the floor spelling out in some detail the civil-rights proposals which our party, as a party, announced its intention of supporting. I am referring to the original language of the committee draft of that plank, language which pledges us to continue our efforts to eradicate all racial, religious, and economic discrimination and to guarantee to racial and religious minorities the right to live, to work, and to vote, and the full and equal protection of the laws on a basis of equality with all citizens as guaranteed by the Constitution through the exertion by Congress of its full authority to the limits of its constitutional powers to assure and protect these rights.

That is what we said in the original draft of the plank, and it stayed in the platform. Please note the fact, Mr. President, that there was no attempt by any opponents of civil-rights legislation to seek to rip any of this language out of the platform once it was presented to the convention. There were, however, several attempts to water it down by association, to insert in close juxtaposition to this language other language stressing States' rights. This effort was obviously aimed at weakening the original civil-rights plank. No one who voted on it had any doubt in that respect.

A distinguished Texan, former Gov. Dan Moody, submitted such an amendment and asked for a roll-call vote on it. This was a vote on whether or not the Democratic platform should stress the issue of States' rights in the same portion which also stressed the importance of civil rights. The vote on this amendment was 309 votes, yes; 925 votes, no; or 3 to 1.

This amendment got the support of the full delegations from Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia. It got support from a fraction of the delegations from California, Colorado, Oregon, and Wyoming, and half the votes from Alaska.

The vote against the amendment designed to emphasize States rights in connection with civil-rights issues was: Arizona, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin. Those were unanimous votes of those delegations. In

addition, it got 52½ of California's 54 votes, 9 out of Colorado's 12, 13 out of Oregon's 16, 5½ of Wyoming's 7, 3 of Alaska's 6, and the unanimous vote of all of the other possessions.

There was a further amendment from the floor on this issue that I think is relevant now. It was submitted by a delegate from Mississippi. It would, in juxtaposition with the civil-rights plank originally submitted, and which remained in our platform, insert language reserving to the States all rights and powers reserved to them by the Constitution, among them, according to this amendment, being the power to provide by law for qualifications of electors, the conduct of elections, regulation of employment practices within the States, segregation within the States, and define crimes committed within their borders and prescribe penalties therefor, except such crimes which under the grant of power by the Constitution to the general Government may be defined by it.

That is language which would have said: The poll tax is strictly a matter for the States; FEPC legislation is outside Federal jurisdiction; antilynch law is for the States alone.

Mr. President, this amendment was defeated without even the formality of a roll-call vote. It was shouted down in derision by the convention. There was no request for a division or a roll call. It was like a pro forma amendment striking out the last word.

The Democratic Party drafted its platform in good faith, in a good-faith determination to make good on it. We did not have our fingers crossed when we adopted these pledges on civil rights. We meant them. We will fight for them.

The Republican Party drafted a similar platform pledge on civil rights. I trust that that party also had no mental reservations about making good on this pledge.

Mr. IVES. Mr. President, will the Senator yield for a question?

Mr. MYERS. I am very happy to yield for a question.

Mr. IVES. Does the able Senator from Pennsylvania recall that the Republican platform, which embraced the provisions to which the able Senator refers, was adopted unanimously at the Republican Convention at Philadelphia?

Mr. MYERS. My answer to the Senator from New York is that that is my understanding and belief. I hope that his party will fight, as I know he will fight, for that plank as it was adopted at Philadelphia.

It is obvious by now that the Democratic Party and the Republican Party together can make good on our civil-rights pledges only if we can end the power of an organized minority to combine in successful efforts to kill each such proposal by nothing more lethal than talk, to kill it by endurance of their lungs and their feet, to kill it by being prepared to talk on and on and on and on until such time as the Senate and the people of America will have thrown in the sponge and surrendered and said that other matters of pressing importance held back from Senate consideration by a filibuster must go forward, and so the effort to pass civil-rights legislation must be sacrificed.

There are some other issues involved here, of course; but I do not believe I should go into them at this time.

In any event, I wish to make this pledge—and I think nearly every Senator would make a similar pledge: So long as I am in the Senate, I am going to stand fast for free speech and the free right of any Senator to express his views on pending legislation and to help us reach reasoned and fair determination of the issues through any material or information which he can provide in that direction. The Senate of the United States is an institution which, regardless of our tenure here, awes us all. We cannot help but be impressed by the responsibility we carry as Members of such a great body. I know of no Senator now a Member of this body who would have so little regard for the sacred principles of American democracy as to seek to make a mockery of them by joining in an arbitrary attempt to silence another Senator in the course of intelligent debate on any issue. When, as, and if cloture is invoked on this floor, whether by two-thirds rule, or by 49 Senators, as provided under my amendment, it will be invoked, I am sure, only after full debate and full opportunity for each Senator to contribute intelligently to the deliberations of the Senate.

But, Mr. President, when that privilege is abused—and we all know when it is being abused; we all know when extended debate has turned into filibuster, and when deliberation has turned into delay and obstruction—when that occurs, then we must have available the machinery by which to restore the Senate of the United States to its customary dignity and to return to the Senate its opportunity to act in the interest of the people, in the interest of the country, in the interest of humanity, in the interest of decency.

Mr. MORSE. Mr. President, I rise to support and defend the President of the United States, who I think has made the one and only sound proposal for the elimination from the Senate of the United States of what I consider to be the evil practices of filibuster.

I point out that the President has had a considerable amount of experience in the Senate of the United States as a Senator from Missouri; and on the basis of that experience and on the basis of his experience in the White House, I understand that it is correct—and I do not believe it will be denied—that the President of the United States in recent days has expressed his approval of a reform of the Senate rules for which some of us have been fighting for some time past—a reform which would truly restore to the Senate the principle of majority rule. I understand that the President has expressed himself in favor of the cloture petition or cloture procedure which some of us have been proposing for the past several years, namely, that under certain procedural steps in the Senate of the United States, we shall end debate by the same vote we use in passing major legislation, such as an Economic Cooperation Administration plan or lend-lease; yes, by the same vote rule we follow when we find it necessary to declare war, namely, a majority-vote rule.

I am a little at a loss, to say nothing about being somewhat disappointed, to find a complete retreat, apparently, on the Democratic side of the aisle from the President of the United States, the Democratic leader, insofar as giving to him the support he so justly deserves, in my opinion, for his proposal that we end debate in the Senate of the United States under a cloture rule which will permit of a majority-rule principle. I had hoped that for my antifilibuster resolution, which provides for a majority-vote rule, I would get some Democratic support. I do not want the present Presiding Officer of the Senate or any other Democratic Senator to think for a moment that I am the least bit embarrassed about standing here on the floor of the Senate and defending the President of the United States. On the contrary, I consider it a great privilege and a high honor. I only wish I had some Democrats joining me in defending the President of the United States this afternoon, because I think the President of the United States in his recommendation, which happens to correspond with my own recommendation and resolution, is standing for the only sound procedure which would make it possible for the Senate to operate efficiently and would give voice in the Senate of the United States to the people's business by taking care of it in accordance with what I am satisfied an overwhelming majority of the people think is basic to American democracy, namely, rule by the majority. Yet I understand that my good friend the Senator from Illinois [Mr. LUCAS], the majority leader, has said, in effect, that on this particular matter he is sorry that he cannot follow his chief. I do not quote him verbatim, of course, but I am sure I correctly quote his meaning, if he has been correctly quoted in the newspapers.

I have just listened to the speech of the Democratic whip, the Senator from Pennsylvania [Mr. MYERS], who earlier in this session submitted a resolution on cloture which provided for the principle of majority rule, and which differed from my resolution only in one particular. My resolution, as I subsequently perfected it, provided for a majority-vote principle; and, provided that after the adoption of cloture, through a petition filed by 16 Senators—as is the case under the present rule—and after 96 hours of debate would be permitted, each Senator who did not wish to make use of the full hour of debate after cloture—allowed to him by my resolution, would have the right and privilege of farming out his time, if some other Senator wished to take it and add it to the hour which the resolution automatically would provide to each Member of the Senate. I went to the Senator from Pennsylvania and suggested to him that we try to combine our two resolutions. My resolution, when first submitted, as the Presiding Officer will recall, sought to give to each Senator a 2-hour period for debate, after the adoption of

cloture, with the farming-out privilege; but I proceeded to make an investigation of the statistics shown in the history of filibusters in the Senate, and I discovered that not even the 96-hour period has ever been used, after cloture. So I decided that the minority would be adequately protected, so far as giving them adequate time to debate the merits of the case, if I changed my proposal so that, instead of providing a 2-hour period, it would provide a 1-hour period, and I so notified the Committee on Rules when I testified before it at the hearings.

At that time it was my understanding the Democratic whip was of opinion the majority-rule principle should prevail, save and except he thought the time should be limited to but 1 hour for each Senator, without the farming-out provision. I suggested to him we combine our two resolutions by my giving up the 2-hour provision and adopting his 1-hour provision, and in turn, by his agreeing to the farming-out provision of my resolution. He was very courteous, as he always is, and in fact, as all my colleagues always are to me and as I try to be to them. He said that under all the circumstances—and I think I quote him accurately—he thought perhaps it would be better if each one of us pressed for his individual resolution. I understood that language. I took it for granted the distinguished Senator from Pennsylvania had good reasons, which he was not at the moment discussing with me, for not accepting my compromise proposal; but I did not have the slightest notion that what he had in mind was, that at a subsequent date he would further modify his position by adopting a constitutional-majority principle in place of a simple-majority principle. But that is what he subsequently did; and so even the very distinguished and exceedingly able Democratic whip left the President of the United States on this issue and adopted a constitutional-majority principle for his resolution.

I have not been able to find out for a certainty, but it may be I stand here this afternoon as the only Member of the Senate solidly in support of the President on this issue. Be that as it may, if it is true, I am proud of it, because I am satisfied the President is absolutely right in the position he has taken; and I hope I have demonstrated by this time during my service in the Senate that whenever I think the President or any other Democrat is right, I am going to be nonpartisan enough to support him. I take it for granted the people of my State sent me here to support and fight for what I think is right. I am convinced, for reasons I shall hereafter set forth in this speech, that the simple-majority-vote principle for which the President is standing, if I have been correctly informed as to his position, is the absolutely sound way to eliminate the filibuster evil from the Senate.

With that as an introduction I wish to make a brief comment upon the rather peculiar position in which I find myself this afternoon, a position that might be subject to misunderstanding or misinterpretation if I did not make a clarifying statement. I have no desire to assist in any way a filibuster in the Senate. But I think that, before the cloture petition is filed this afternoon, those of us who have very definite views on the merits of the filibuster issue should get them into the RECORD. I am not sure what the parliamentary situation may be as to our rights to place them in the RECORD, at least in time for them to become a part of the RECORD before the vote, so far as the cloture matter is concerned, if we do not do it now.

So I desire to state for the RECORD my reasons in support of the Morse antifilibuster resolution, and I want to reply briefly to some very able, but I think fallacious, arguments which have been made on this issue by some of my distinguished colleagues on the other side.

I agree with the distinguished senior Senator from Georgia [Mr. GEORGE] this is a momentous debate. I think it is but another chapter in a great fight that is going to continue to be waged in the Senate until the coming of that happy day when the people's will will prevail and a rule in the Senate will be adopted making it possible for the will of the people through a majority vote of their elected representatives to be registered in this august body.

I do not think we are going to win the fight this time. I wish I could be more optimistic about it. But I expect now as in the other rounds of the fight in times gone by, the proponents of an antifilibuster resolution will lose. Why? Because neither party in the Senate, Republican nor Democratic, in my opinion, has stood up in the fight and made it clear it is willing to take those steps necessary to win the fight. Thus it must go back to the people, and the people once again are going to have to impress upon more Senators at the ballot boxes their determination to see to it that the fight is won in the Senate, either by getting men now in the Senate, once they come again face to face with the people on this issue in campaigns, to change their thinking on the issue, or by supplanting men already here, at future elections, with other candidates for the Senate, who will come here and make the fight which I think should be made now, and, as I have said on the floor on this issue in times past, which should have been made in previous battles.

We cannot win unless we are willing, as we have not been thus far in the fight, to continue in session for as many days, weeks, and months as may be necessary to demonstrate to the minority that we do not propose to have the majority will trampled by minority tactics in the Senate. It must be done some time; why not now?

I have asked that question over and over again during the last 4 years. I shall continue to ask it, until the time comes, which I hope will not be in the far distant future, when my party in the Senate, as a Republican policy will organize by way of opposition to a filibuster, and declare our determination to remain here for as many months as may be necessary to break the filibuster. I hope the alleged antifilibusterers on the Democratic side of the aisle will with equal determination so organize themselves that we can get the issue behind us. I am satisfied the rule of the Senate permitting filibusters is devastating to the interests of the people in the case of issue after issue.

I repeat, Mr. President, that the rights of the people in legislation before the Congress of the United States are no better than their procedural rights in the Senate of the United States. So long as the rules of the Senate permit, through a filibuster, the defeat of the will of the great, overwhelming majority of the American people on various issues, then there must be eliminated the procedures which produce such an unconscionable result, if this is to be a truly representative government. To me it is a very simple issue. I am either right or wrong, Mr. President, in saying that the most fundamental tenet of a democratic form of Government is that which says the majority will shall prevail, subject to the checks and balances of the Constitution, through a judiciary, and the veto of the President, in case the majority of the Senate and the House pass legislation which cannot be squared with the fundamental constitutional guaranties of the document which gave us all of our rights and liberties.

That is why I never have been able to accept, and cannot now accept, the able arguments of distinguished Democrats on the other side of the aisle, that the Constitution guarantees to them that, under the rules of the Senate, they shall have preserved to them the right to block the majority through procedural tactics, because, in their judgment, they do not believe certain legislation which the majority otherwise would pass is constitutional. Mr. President, that defies, in my judgment, our whole theory of government, not only of checks of powers but separation of powers as well.

The American people need to reflect once again on the fact that under our system of government, if we pass legislation which, in fact, is unconstitutional, the courts will pass on it, unless, before it gets to the court, the President of the United States exercises his veto, which, under the Constitution, requires a two-thirds vote to override.

When the founding fathers were faced with the problem of establishing the checks in the Constitution they did not have any difficulty in providing a two-thirds vote requirement when they wanted a two-thirds vote requirement as a check. They understood the effect of a two-thirds vote requirement as well as we do; and in the magnificent document which they wrote they checked us, the Senate of the United States, in the passing of unconstitutional legislation, by giving to the President the veto power over us and requiring that his veto shall stand unless a two-thirds vote of the Senate, as well as of the House, overrides it. But they did not anywhere in that document provide that the debate in the Senate of the United States shall be unlimited in the sense that a handful, a minority, of Senators can organize and block the will of the majority by

preventing a vote ever occurring on a piece of legislation. If they wanted to place that power in any minority group in the Senate, the English language was perfectly capable of being so used. But they did not do it. What did they provide? They provided that the House and the Senate shall be allowed to make their own rules governing procedure.

Mr. President, I think one of the most able arguments which has been made in the course of this debate was the argument made by the Senator from Georgia [Mr. GEORGE], for whom I have the highest respect and for whose views, as the RECORD will show, I find myself many, many times, I think, more often than not, in agreement; a man who, in my judgment, is a great lawyer, but with whom, on this issue, I find myself in complete disagreement. Because the argument he made recently on the floor of the Senate, in my judgment, has had great weight in the thinking of my colleagues, I propose, very humbly, this afternoon to answer a few of his observations, inasmuch as I disagree with the Senator on a great many of his historical observations and interpretations, and I disagree with him on some of his conclusions as to constitutional law.

In the speech of the Senator from Georgia, delivered on February 28, 1949, he said, at page 1606 of the RECORD, that had someone suggested a limitation on debate in a conference of the States, before the formation of the Constitution, it would have dissolved the conference.

The Senator from Georgia can assert it, but it is an assumption, which, in my judgment, does not rest upon historical probability. Why do I say that? Because, Mr. President, the Continental Congress, which preceded these great constitutional debates, operated on the basis of a rule which permitted of the previous question. It did not dissolve over that parliamentary practice which limited debate. At the very time the constitutional fathers sat it was the common practice in parliamentary bodies, colonial, and, to the extent we had them, combinations of colonial bodies such as the Continental Congress to use the previous question technique as the device for limiting debate.

I most respectfully say to my good friend from Georgia that I know of no basis in history to support his assumption that had any such proposal been made at the Constitutional Convention to limit debate in the Senate of the United States, the convention would have dissolved. To the contrary, I think the assumption ought to be that, in view of the parliamentary practice which prevailed at that time, by way of the previous question as a device for limiting debate just the opposite conclusion from that reached by the Senator from Georgia is the one which we should accept.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. MORSE. I shall be very glad to yield for a question.

Mr. GEORGE. Does not the Senator know that the previous question, at the time of the adoption of the Constitution, was itself a debatable question, and that it has little relationship to the previous question as now known in the House of Representatives?

Mr. MORSE. I am perfectly aware of that, but I am sure, also, that the Senator from Georgia would agree with me that at the time of the Constitutional Convention, at the time of the Continental Congress, the usages or practices which grew up around the use of the previous question did not fall into the evil way of a filibuster as it has developed on the floor of the Senate. Rather the fact is that Members voted on the previous question for limiting debate on a majority-vote basis. In other words, the practice was that men who assembled in parliamentary bodies, after full and fair debate on the merits of an issue, recognized the right of the majority eventually to end debate by the previous question.

In defending the right of unlimited debate in the Senate, Senators GEORGE and CONNALLY, for example, relate it somehow to State sovereignty, to the sovereignty of the individual State.

Sovereignty means supreme power. The question of the location of sovereign power in the United States is to be answered, not by reference to the political theory of the American Constitution, but by reference to the hard facts of American life. Whatever the original design, the stubborn fact is that supreme power has come to reside in the central government (if it resides anywhere) as a result of the outcome of the War Between the States, the industrial revolution, and the onward march of science and technology. The intellectual edifice of State sovereignty and States' rights, with its corollary doctrines of nullification and withdrawal, treating the National Government as the mere agent of associated States, which was elaborated by Calhoun, collapsed with the defeat of the South in the Civil War.

State sovereignty, in a narrow sense, no longer fits the cold hard facts of modern industrial society. It has passed away forever down the irreversible stream of time. Yet it lingers on in the southern mind like the nostalgic echo of a voice that is still. "But, oh, for the touch of a vanished hand, and the sound of a voice that is still."

Mr. President, the Senator from Georgia, in his very able speech on February 28, said that a right which attaches to the sovereign State is this right of unlimited debate. As I have just said, the Constitution does not say so. Article I, section 5, paragraph 2, of the Constitution provides that each House may determine the rules of its proceedings. Therefore I do not think there can be any reasonable doubt, certainly no reasonable constitutional doubt, concerning the power of the Senate under the Constitution to adopt a rule regulating debate in this body. If that premise is sound under article I, section 5, paragraph 2, then certainly there is no invasion of sovereign powers of the States under the Constitution for this body to adopt a majority-vote rule, because article I, section 5, paragraph 2, contains no word of limitation on the power of the Senate of the United States to adopt its rules.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Georgia?

Mr. MORSE. I yield.

Mr. GEORGE. Of course, the Senator is familiar with the Constitution, and he recognizes, does he not, that there are some things which cannot be done by the Congress except by the consent of the States, and the one and foremost provision is that no State can be deprived of its equal representation or equal suffrage without its consent?

Mr. MORSE. That is correct.

Mr. GEORGE. I also call the Senator's attention to another constitutional provision, namely, that there can be no subdivision of a State, or the creation of a new State out of an old State, or the creation of a new State by combination of parts of two States, except by the consent of the States.

Mr. MORSE. That is true.

Mr. GEORGE. The Senator would not contend, would he, that by mere rule or regulation those constitutional prohibitions could be written out of the Constitution?

Mr. MORSE. Not at all, but I do contend that the observation just made by the Senator from Georgia is entirely irrelevant to the issue before the Senate, as to whether or not under article I, section 5, paragraph 2, of the Constitution the Senate of the United States has the right to adopt a rule governing debate in the Senate which will provide that a majority vote may limit debate. Such a proposed rule has not the slightest connection with the sovereign right of any State.

Mr. President, of course there are rights given to the States under the Constitution which the Senate of the United States cannot take away from the States, but I cannot go along with what I consider to be a fallacious conclusion in the logic of the Senator from Georgia, that because certain rights of the States are guaranteed to them under the Constitution, there is any connection whatsoever with the grant of rights and powers in article I, section 5, paragraph 2, which specifically reserve to the House of Representatives and the Senate the right to adopt rules governing their proceedings. I most respectfully say that the implication of the argument of the Senator from Georgia is a clear non sequitur.

Mr. President, in his very able speech the Senator from Georgia pointed out that there is a danger of whittling away the rights of the States. Let us consider the Hayden resolution for a moment. I am sure the Presiding Officer knows that I am not in favor of the Hayden resolution, save and except I may in the last analysis be forced to vote for it because I apparently stand here this afternoon, as I said before, as the only defender of the President of the United States in support of a majority-rule principle for limiting debate in the Senate, and, of course, if I have no support at the present time for the position the President of the United

States and I take in this matter, I shall have to bide my time until the electorate changes that situation, and during the interim I may have to go along with the Hayden resolution, inadequate as I think it is; but it is better than the present rule. So let us look at the Hayden resolution for a moment.

I say, Mr. President, that the safeguard of States' rights is to be found in the equal representation of the States in the Senate, and not in its parliamentary procedure. I repeat, my first answer to the able argument of the Senator from Georgia is that the safeguard of States' rights is to be found in the equal representation of the States in the Senate, not in its parliamentary procedure.

The Hayden resolution proposes no change in the voting requirements for the application of cloture, nor any reduction in the time allowance for debate following the vote on the cloture motion. No apprehension of the impairment of the rights of the States was voiced in the debate preceding the adoption of the existing cloture rule in 1917, for which all the southern Democratic Senators voted on that memorable day. Were State rights jeopardized during the 5-year period from 1917 to 1922, before the first breach in the ramparts of the present rule was found by a Presiding Officer? The States rights argument in this connection, I say most respectfully, Mr. President, is unsound, and designed to catch timid and unwary souls.

Mr. President, let us consider what an examination of the facts shows about the debates which occurred in 1917 at the time the present cloture rule was adopted.

The date was March 8, 1917. The debate consumed 6 hours, or 26 pages of the RECORD. Of the Senators who participated in the debate, six expressed their preference for majority rather than two-thirds cloture. They were:

Hollis, of New Hampshire, whose comments appear on pages 26 and 27 of the RECORD for March 8, 1917.

Norris, of Nebraska, whose comments in support of majority rule appear on pages 27 and 28 of the RECORD for that date.

Stone, of Missouri, whose support of majority rule cloture appears on page 31.

Owen, of Oklahoma, whose comments appear on page 32.

Thomas, of Colorado. Read his support of majority rule on page 33.

Vardaman, of Mississippi. Note his comment on page 39.

Senator Stone on that occasion prophesied that the two-thirds cloture rule would prove ineffective, and I venture in my humble way to prophesy this afternoon that, even with the adoption of the Hayden resolution, we will not solve the filibuster problem in the Senate, and we will never solve it until we adopt the majority-vote principle in this body.

Mr. BALDWIN. Mr. President——

Mr. MORSE. I will not yield. I am sorry.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. MORSE. I wish to say why I will not yield, except to the Senator from Georgia. As a matter of courtesy to him, because of my reference to his argument, it would in my judgment be most unfair for me not to yield. But I am not going to yield to any other Senator, now that I have the floor, for two reasons. First, I do not want to be charged with engaging in a debate 1 minute longer than in all sincerity and good conscience I think I have to speak to make my case on the merits of the great issue pending before the Senate. In the second place, I am not going to yield because I do not want to be taken off the floor, and, although I know that the Senator from Illinois [Mr. LUCAS] would not attempt to take me off the floor by way of seeking to file a cloture petition while I am on the floor, I know he cannot necessarily control other Members of the Senate. I recall that at one time last year—I think my memory serves me correctly—a debate was proceeding when a ruling was handed down that if a Senator obtained the floor for the filing of a cloture petition he could take the speaker off his feet, and I am going to do my best to protect myself until I finish this argument, which so far as my political record is concerned, Mr. President, is of utmost importance to me. I submit that from the standpoint of future events in this country, the arguments which I propose to make this afternoon are going to be of utmost importance to some other Senators in the Senate of the United States.

On March 8, 1917, Senator Owen, of Oklahoma, stated that at least 40 Senators then favored majority cloture, but were bound by a gentlemen's agreement to vote for a two-thirds rule. It is my understanding that what happened behind the scenes in 1917 was that some 40 Senators expressed preference for a simple majority-vote rule in the Senate of the United States for limiting debate, but the leadership prevailed upon them, as so often happens in the Senate now, to modify their views or compromise their position by going along with a two-thirds vote rather than the majority vote which they preferred. It was that understanding and that arrangement which I assume Senator Owen was referring to when on March 8, 1917, he said that at least 40 Senators then favored majority cloture, but were bound by a gentlemen's agreement to vote for the two-thirds rule.

The RECORD shows, Mr. President, that Senator Thomas, of Colorado, on that day said:

> The principle of majority rule is an established and essential principle in American government from the Nation to its smallest hamlet. The majority should have and exercise the power of determining what its policy will be not only with regard to legislation, but, as well, the methods by which legislation is to be accomplished. Two-thirds cloture—

He said—

> will bring no real measure of relief. It will provide a delusion and a snare. Unless the rules be amended by providing cloture by majority the practical operation of this amendment will prove a deep disappointment to the hopes of its sponsors.

If prophetic words were ever uttered in the Senate of the United States, Mr. President, on March 8, 1917, Senator Thomas, of Colorado, uttered them in connection with the quotation from his speech I have just read to the Senate, because I think it is perfectly clear that the two-thirds vote rule in regard to cloture has proved to be a delusion and a snare.

On that same historic day, the Senator from Mississippi, Mr. Vardaman, stated that he recognized that unlimited debate has served the people of the South—

But—

He added—

> I would prefer that the rule would provide for the invocation of the cloture by a majority rather than by a two-thirds vote.

Mr. President, the two-thirds cloture rule was adopted on March 8, 1917, by a vote of 76 to 3. Of the 16 Senators not voting, it was announced that 11 would have voted "yea." Thus, at least 87 of the 96 Senators then favored a limitation of debate in the Senate of the United States. Where were the southern protests on that day when the sovereignty of the States was being invaded? Where were the southern protests on that day that a great constitutional safeguard was being destroyed in the Senate of the United States? Southern Senators on that day voted for the rule. I think it is also quite obvious that they voted for the rule, thinking, as was the practice for the 5 years thereafter, that it applied to all matters of business before the Senate, be it a motion to take up a bill, or to approve the Journal, or to consider a measure in the sense of the subsequent interpretation of the word "measure" being limited, as the Presiding Officer 5 years later ruled, to a pending bill.

No; I am not impressed, Mr. President, with the argument that the sovereignty of the States is being invaded by putting into application the simple majority-vote principle in the Senate of the United States so that we can transact the people's business and protect the people from the obstructionist tactics of men who seek to talk a bill to death so that no vote can ever occur on it.

I repeat now what I think I have said before on the floor of the Senate—I certainly have said it in committee—that there is all the difference in the world between a prolonged debate on the merits of an issue and a prolonged debate that is intended to continue until such time as the majority yields to an agreement or understanding that no vote on the measure at all shall take place, but, rather, that the majority shall surrender to the minority and the proposed legislation shall be laid on the table or be withdrawn. That has happened since I have been in the Senate, and the CONGRESSIONAL RECORD is filled with many instances of its happening before I came to the Senate. I say that that type of prolonged debate in the Senate of the United States defeats what I consider to be one of the fundamental purposes and principles of democratic government—majority rule.

Not only that, but let it be understood that one of the most costly prices we pay for the filibuster tactics in the Senate of the United States is in committee—not on the floor of the Senate, but in committee. The American people, I am sure, are not fully aware of the fact that the threat of the filibuster is a common weapon that profilibusterers use frequently in committee, where, after a committee by a clear majority is of one mind as to what kind of legislation should be recommended to the floor of the Senate, a minority of the committee will say, in effect, "If you vote the bill out in that form, we warn you we will talk it to death on the floor of the Senate." I call that parliamentary intimidation and, in my judgment, it is used too often in the Senate of the United States, with the result that too frequently committees bring to the floor of the Senate, not legislation by way of recommendation which corresponds to their real desires as a majority; not legislation which the majority of the committee thinks would be in the public interest; but legislation which has been whiplashed out of them by way of a threat of a filibuster if they do not yield in committee to the will of the minority.

Mr. President, if I had to state what I think is the greatest evil in the filibuster, I would not mention first the tremendous waste of time and expense involved in holding up the people's business on the floor of the Senate in actual debate, bad as I think that is. I should say that the great cost of the rule which permits a filibuster is paid in committee, in executive sessions of the committee, away from the public view, where the public is not aware of what is going on behind committee doors. We are confronted there with the threat that if we do not yield to the whiplash of the minority by writing into the bill provisions which we do not think ought to be in the bill, we either cannot get a bill at all, or if we get it to the floor of the Senate, the minority will talk it to death, to use the exact phrase which I have heard on several occasions in committees of which I have been a member since I have been in the Senate.

That is not good government. I do not think it is democratic government. Thus I repeat that I am proud to stand here today shoulder to shoulder with Harry S. Truman in support of a principle of good government which I think in some way, somehow, we must make prevail in America—that the Senate of the United States shall operate and function on the basis of a majority vote principle. My invitation is an open one, and will continue to be extended over the months and years ahead, so long as I am in the Senate, for Democrats and Republicans alike to join with me in support of President Truman on this issue, because he is right.

Returning to the argument of the Senator from Georgia [Mr. GEORGE], in this very able argument he said, on February 28:

> We can have absolutism in a legislative body. We can bring about absolutism in the Congress by a gag rule.

Mr. President, absolutism means despotism. Absolutism is the doctrine or practice of unlimited authority and control. I repeat that there are ample limits upon public authority in our constitutional system of checks and balances; but unlimited debate in the Senate has never been a part of American political theory.

I quote from the scholarly book by W. F. Willoughby, Principles of Legislative Organization and Administration, published in 1934. I read excerpts from pages 495 and 499. In that book Willoughby says:

> The real issue involved in obstruction in the Senate is simply this: Shall majority rule and responsible party government prevail? Impartial students of the question have concluded that it is desirable that the Senate should provide by its rules for greater freedom of debate than obtains in the House, but that it should at the same time provide means by which an abuse of this freedom may be prevented. * * * Obstruction which goes beyond that of legitimate debate is an evil that should be brought under control, both because it consumes the time of the Chamber and because it places undue obstacles in the way of proper working of party government. * * * As in all cases where power is granted, the opportunity for its abuse exists and * * * reasonable safeguards against such abuse should be provided. Such safeguards, however, should not go as far as to enable the minority, in an open contest, to make its will prevail over the majority. While a majority can use its powers in an illegitimate way, the same is true of the minority; and as between the two, the former * * * is the lesser evil.

Mr. President, I fail to see any basis in merit for the fear of the Senator from Georgia that the adoption even of a majority-vote rule in the Senate of the United States would run any danger whatsoever of absolutism. The Senator from Georgia was speaking of the Hayden resolution. I am sure that he would deplore even more my resolution. However, even under my resolution, I do not see any basis for the fear which he has expressed, if we constantly keep in mind the other checks against a majority which might seek to abuse its powers, as suggested by Mr. Willoughby in the book from which I have quoted; if we keep constantly in mind the veto power of the President, the two-thirds vote under the Constitution in regard to overriding the veto, and the great judicial safeguards of the United States Supreme Court in protecting constitutional rights both of individuals and of States.

That leads me to repeat for the RECORD the protection to minority rights contained in the resolution for which I am fighting and which adopts majority-vote-rule principle. It has been suggested in the course of this debate—in fact, in the committee the distinguished Senator from Arizona [Mr. HAYDEN] suggested it—that if we adopt a majority-vote principle in a resolution which provides for 96 hours of debate, as my resolution does, and which accords to each Senator the right to farm out his time, as my resolution does, there is nothing thereafter which would stop the Senate from further modifying such a rule so as to reduce the 96 hours to 48, the 48 to 24, the 24 to 12, the 12 to 6, or to use the argument of reducing it to an absurdity, wiping out entirely—so those who fear that danger say—any right to debate after cloture has been adopted.

I know that reducing things to an absurdity is frequently a very effective technique when someone wishes to argue from fear rather than from the realities. I believe that those who make that argument fly in the face of the realities of practice of the Senate. Why do I say that? I say it because, as I shall show later by certain statistics which I shall offer, it is most difficult to get 16 Members of the Senate to sign a cloture petition in the first instance. They are not going to do it, and they do not do it, unless and until they become convinced that there is in progress a filibuster which seeks to prevent a vote from ever occurring on an issue.

After the petition is signed, there is another safeguard reality. Those who employ the fear argument tell us that there is a danger that a majority may subsequently further modify the rule or overlook it. The safeguard is that after 16 Members have signed a cloture petition, under my resolution it would require a majority of the Members of the Senate to apply cloture. Has that happened very frequently? In the cases in which cloture petitions have been filed, we find that out of 19 times when such a petition was filed, it was possible to get a majority vote only 12 times. Incidentally, it was possible to get a two-thirds vote only 4 times. That is why I say that the proposal which is being offered here for a two-thirds vote is ineffective. Statistically it is shown to be little more than a gesture. A two-thirds vote was obtained only 4 times out of 19, and a majority vote 12 times out of 19. So it is evident that a majority of the Members of the Senate will hesitate a long time before they stop their colleagues from discussing the merits of an issue, unless they are convinced that the minority have organized in an endeavor to prevent the majority from even voting. Then I say it is proper for the Senate rule to vest in the majority the right to vote, as provided in my resolution. Although there are some Members of the Senate who seem to think that this type of a practical check in the Senate is not effective, I think the matter of fair play in the Senate and the matter of senatorial courtesy is one of the very practical safeguards protecting the minority from any steamroller tactics which those who have protested my use of the so-called senatorial courtesy argument seem to fear. History supports me, Mr. President, for the statistics which I shall shortly present show that the majority is very hesitant, as it should be, to apply any gag upon the minority, save and except in instances when it is satisfied that the minority is seeking to deny to the majority its democratic right to reach a vote on the issue in question.

So I say that when we examine the realities of Senate practices, the fear arguments, which are being advanced by the opponents of my resolution provid-

ing for a majority-vote rule, deserve very little weight.

But the Senator from Georgia apparently feels that there is a great danger of this, because in his speech on February 28 he said:

> Senate Resolution 15 is a grant of power which ultimately will be used to perpetrate a great wrong.

Mr. President, I do not share that opinion. I do not agree with the Senator from Georgia that Senate Resolution 15 is a grant of power. I say it is naught but a rule of procedure prescribing the conditions under which debate may be closed. It can be successfully invoked, under the Hayden resolution, only if two-thirds of the Senators present vote in favor of it. Two-thirds of the Senate will not perpetrate any great wrong upon the American people; in fact, the statistics show that, on the average, 83 Senators have voted on each of the 19 cloture petitions or motions which have been submitted since 1917. We see, therefore, that when a cloture fight arises in the Senate, and when the time comes for voting on that question, there are not very many empty seats in the Senate Chamber. The record shows that to be so. I repeat that, on the average, 83 Senators have been in their seats at the time of the vote on 19 different occasions since 1917 when cloture petitions have been filed and the question of invoking cloture has been voted on.

Mr. President, cloture does not take away any part, I submit, of the right of the smaller States of the Union to have their say in regard to what they wish to say.

In his speech on February 28 the Senator from Georgia also said:

> The smallest State in this Union * * * can say what it wishes to say.

I agree with the Senator from Georgia, but I deny his conclusion that Senate Resolution 15 will in any way take away that right. There will be ample opportunity for every State, large or small, to be heard upon the merits of a question, under Senate Resolution 15 or under my resolution providing for cloture by majority vote, if you will, Mr. President, both during the pre-petition stage, during the 2-day interval between the filing of the cloture petition and the vote on it, and during the 96 hours of potential debate after cloture has been adopted, if it is adopted. Under those procedural steps, I ask, can one really imagine a situation in the Senate of the United States in which the smaller States will not have ample opportunity or time to have their say, and all they want to say, on the merits of any issue pending before the Senate of the United States? Let us keep in mind, first, the reluctance of any 16 Members of the Senate to file a cloture petition unless they are convinced that a filibuster has started—which means that prior to that moment there has been adequate and ample time for debate on the merits of the issue in question—and, second, the fact that after the filing of the petition there is a 2-day interval which permits of two continuous days of debate on the merits of the issue involved in the cloture petition; and the further fact that after the adoption of cloture, if it is adopted, 96 hours of debate are permitted under the Hayden amendment, if each Senator wishes to use his hour, to discuss the merits of the issue; and the further fact that under my resolution 96 hours of debate is permitted, with the farming-out privilege, which I think is an additional safeguard to minority interests in the Senate—which I, too, wish to protect; I simply do not wish to give the minority the right to trample the majority underfoot. That is the difference. I do not wish to give to the minority the right to deny effectively to the majority the right to pass proposed legislation, which the present rule permits the minority to do.

No, Mr. President; the talk about taking away from the smaller States their right to say what they wish to say on an issue is a fear argument. It simply will not work out that way in practice. It does not work out that way in practice and I submit it cannot work out that way in practice. My proposal does give—and its great merit is to be found in its strength—to the majority in the Senate the right to prevent any minority group of Senators from denying to the majority the right finally to pass proposed legislation.

My good friend the Senator from Georgia said on February 28:

> If a man's soul recoils from such a proposition as that, is he not justified in saying that, so long as he can prevent it, it shall not even be submitted to the Congress of the United States for decision?

My answer to him is that I do not think such a right should be recognized under the rules of the Senate of the United States, because I believe such a claimed right, if allowed to be exercised, is equivalent to a license to defeat a fundamental tenet of democratic government, namely, the will of the majority. For one Senator or a minority of Senators to refuse to permit the Senate to vote upon a proposition, simply because the minority believe it is unconstitutional or is contrary to some sectional interest, in my judgment is an arrogant substitution by the minority of their judgment for that of the entire Senate and of the courts of the land. The final arbiters of the civil rights and liberties of the American people are and should be the courts, not transient minorities in the Senate of the United States, whose Members may come from only one section of the country or from only one political party, and none of whom may have been elected recently. The fifth amendment to the Constitution did not enact Herbert Spencer's proposed Social station. Neither should rule XXII enable a handful of Senators to prevent consideration of legislation passed by the House of Representatives and desired by an overwhelming majority of the American people.

Let me say a word about the interesting question of political science and politjcal ethics, as to just whom we represent in the Senate. Reasonable men may differ, as they differ on the point I now make; but so far as I am concerned it is a crystal-clear dictate that I feel was vested in me when the people of my State sent me to the Senate. They did not send me to the Senate from Oregon for Oregon. They sent me under our representative system of government from Oregon for the Nation; not to sit here and vote a blind partisan sectional interest on any piece of legislation. Great as the temptation sometimes is to vote and act in that way, weak and inclined as some of us at times may be to yield to the temptation, if and when we do, I say, in my judgment, we do not measure up to the great trust the people of our States placed in us when they sent us to the Senate.

I look upon the Senate as a part of our representative government, as a part of a legislative government, I may say to my good friend from Georgia, as a part of one of the legislative branches of the Government, sent here to legislate in the interests of all the people from the Pacific to the Atlantic and from the Canadian border to the Gulf of Mexico. The people of Oregon did not send me here as an ambassador from Oregon. I thought we answered and found the solution to that issue, terrible as it was, costly as it was, in the War Between the States. I thought as the outcome of that war the notion of Calhoun that we sat here as ambassadors from our respective States was repudiated, and that from that time on we were to sit in the Senate, not as ambassadors from particular States, fighting for the selfish sectional interests, economic, political, and social, of various sections of the country, but fighting for the welfare of the Nation. At least it is in that spirit I propose to stand always on the floor of the Senate and fight as a representative in the Senate from the great State of Oregon, believing that by so doing I am carrying out the great principle of representation to which I pledged myself when I took the oath at the Presiding Officer's desk when I first came into the Senate, to support and defend the Constitution—which means all the rights set forth in the Constitution for the benefit of the whole Nation—and to pass legislation, if necessary, to see to it that millions of people in this country who may not be getting the full fruits of their constitutional rights as set forth in the letter of the Constitution shall be able to live in terms of those rights. That is my conception of my duty of representation in the Senate. I am perfectly aware of the fact, as I read the able speech of the distinguished Senator from Georgia, delivered on February 28, that he has a considerably different notion as to what representation in the Senate imposes upon him by way of duties and rights and obligations.

Since I have come to the Senate I have been saddened several times because I felt on both sides of the aisle alinements were formed on the basis of selfish sectional interests on various economic and social problems before the Senate for consideration. I know the pressure to do that is great, and I know that sometimes when one does not yield to the pressure his failure to do so may be at

great cost to his own political fortunes. I have been able to practice it thus far, and I pray I shall have the strength and the courage to continue to practice it on specific issues, namely, that whenever I am satisfied a vote for a measure that would be of great benefit to my State would not at the same time be in the public interest, I intend to vote against the measure.

I say from the floor of the Senate this afternoon to the people of the State of Oregon I am willing to apply that concept of my duty now to two great measures about which much misunderstanding as to the facts exists in Oregon. Due consideration has not been given to the facts which the people of Oregon sent me here to give consideration to. I suspect the people of Oregon, at a referendum, if it were held today, might vote against the positions I think I shall probably take on those issues. But I shall take them because I do not think it important that any of us stay in the Senate, though I think it important that while we are here we vote on the basis of what we think is the national interest and not the interest of our respective States, if on an issue the national interests and the interests of our States are in conflict.

Thus, I mention the tidelands case, and I say to the people of Oregon today that in spite of the fact that a tremendous drive is being made in Oregon to line up the State in support of the tidelands bill, and although I am convinced that on the basis of that propaganda and its effect on public opinion as of now, in the State of Oregon, if I wanted to play politics with the issue I would vote for it, I shall not vote for it if, when the debate is over, such able constitutional lawyers in this body as the distinguished Senator from Missouri [Mr. DONNELL] can convince me that, as a matter of law, the tidelands belong to all the people of the United States, and not merely to the people living in the States whose shores the tidewaters wash. That is a specific application of the principle I am talking about. That issue, so far as I am concerned, must be decided in answering the mixed question of fact and law, Who, as a legal proposition, under our Constitution, owns the tidelands? If the debate satisfies me they are owned by all the people of the Nation, I shall vote against the tidelands bill. And let me say, so far as considerations of party responsibility are concerned, that I shall vote against it, even though the Republican Party made the tidelands bill a part of its platform. Theory, Mr. President, is fine. The test comes as to whether one is able to practice the sound political theory which I think was clearly written into our organic law. I do not read the Constitution of the United States as containing one word which would support even a presumption that Members of the Senate should sit here and vote sectional interests, although I confess that too frequently that is what has happened.

There is another issue, and that is the labor issue. In my State I cannot find very many "middle-of-the-roaders." They seem to want either the Taft-Hartley law, or the Thomas bill, depending, apparently, upon whether they follow the lines of management or the lines of labor. I think that in due course of time the people of my State will awake to the fact that both the proponents of the Taft-Hartley law and the proponents of the Thomas bill are taking extreme positions which are not in the public interest. They have got labor so disturbed, in my State, that the letters and telegrams I am receiving from labor are phrased in terms of charging me with "running out" on some position I have heretofore taken in the Senate of the United States. It is probably asking too much that they read the RECORD, but I say to organized labor, not only in Oregon but at the A. F. of L. headquarters, the CIO headquarters, and the brotherhoods' headquarters here, "You are being 'taken for a ride' by the proponents of the Thomas bill. You are being taken for a ride in several respects. First, they apparently are giving you the false impression that the Thomas bill has a chance of passing the Senate."

I shall not argue a question of fact, Mr. President, and that is all it is. It is so simple that all we have to do is to count. I have done some counting. I say to labor that the Thomas bill cannot pass the Senate of the United States. It is about time for labor to take stock of that fact. What we need, as I have said before, is a piece of labor legislation which will protect the legitimate rights of labor, which is all labor has the right to ask, and which will protect the legitimate rights of management, which is all management has a right to ask, and which thereby will protect the public interest.

I thought I had made myself clear, time and time again, on this issue during the committee hearings, but propaganda works wonders when the propagandists seek to misinform. Let me say once again that one of the amendments I tried to offer in committee, but was not allowed to, and which I shall offer, in due course of time, on the floor of the Senate, calls for the repeal of the Taft-Hartley law, because, in my judgment, that law is an extreme piece of legislation which is productive of class-conscious conflict and labor unrest, and is unfair and unworkable in many of its provisions. I shall also propose amendments, with the joint sponsorship of Senators on both sides of the aisle, which will protect the legitimate rights of labor and of management and which, to the extent that we can use the figure of speech in this discussion, follow a fair, middle-of-the-road course of procedure.

Mr. President, I say again that I refuse to sit in the Senate of the United States either as a blind partisan representative of a sectional interest, or as a biased representative of any pressure group, be it labor or management, or any other group. I say that it is not important that I stay here, but it is important so long as I stay here that that be my course of action.

Some people say, "In this organized drive against you, what are you going to do when you are licked in 1950?" My reply is, "I am not licked yet, but if and when that shall happen, I shall go back to my home town and into my law office and into further public service on a lower level." I might even run for the city council, Mr. President, because I think I might do a pretty good job of public service even on the city council. We need to understand in America that good public service is needed on all levels of our governmental organization. I think it is to be taken for granted that one who is as devoted to the public interest as I think my record shows I am, can be counted upon, so long as he has the strength to do so, to devote a great deal of his energies to public service, irrespective of the height of the level. I shall keep it pure public service, too, Mr. President.

I return now to my major thesis, namely, that it is a mistaken notion to assume that we sit here as the representatives of the small States or of the large States; but it is a sound theory that we sit here as representatives of the Nation.

Mr. President, in his very able speech on February 28 the Senator from Georgia said:

> There are those who would repeal the Bill of Rights, but I am sure there are none of those persons in the Senate.

In reply to my good friend from Georgia, I say that the Bill of Rights is not involved in the fight to curb the filibuster. It would require a constitutional amendment to repeal the Bill of Rights. All that is involved here is a procedural reform in the parliamentary rules of the Senate. Some persons are seeing ghosts under their beds, in the fears they are stirring up over the implications of this fight to curb filibusters in the Senate. The Hayden resolution is not inspired by a desire to clear the way for this or that legislation, but by a desire to increase the efficiency of the Senate in the performance of its legislative functions. My resolution is devised and designed to accomplish the same ends more effectively and more efficiently than is the Hayden resolution.

Mr. President, another argument in the able speech of the Senator from Georgia was the statement that whenever a measure possesses any real merit there will never be a filibuster against its consideration.

I merely submit the record to answer that argument. I say that the annals of the Senate of the United States are replete with filibusters ranging in length from a few hours to 2 months, on many meritorious issues; and without taking the time to read them, I cite as a reference a list of outstanding filibusters from 1841 to 1948, as published in the corrected copy of George Galloway's pamphlet entitled "Limitation of Debate in the United States Senate."

Mr. President, I ask to have incorporated as a part of my remarks at this point this list of filibusters in the Senate for the years mentioned, as set forth on pages 17 to 19 of the Galloway pamphlet.

The VICE PRESIDENT. Is there objection?

There being no objection, the list was ordered to be printed in the RECORD, as follows:

OUTSTANDING SENATE FILIBUSTERS FROM 1841 TO 1948

1841: A bill to remove the Senate printers was filibustered against for 10 days. A bill relating to the Bank of the United States was filibustered for several weeks and caused Clay to introduce his cloture resolution.

1846: The Oregon bill was filibustered for 2 months.

1863: A bill to suspend the writ of habeas corpus was filibustered.

1876: An Army appropriation bill was filibustered against for 12 days, forcing the abandonment of a rider which would have suspended existing election laws.

1880: A measure to reorganize the Senate was filibustered from March 24 to May 16 by an evenly divided Senate, until two Senators resigned, giving the Democrats a majority.

1890: The Blair education bill was filibustered. The force bill, providing for Federal supervision of elections, was successfully filibustered for 29 days. This resulted in the cloture resolution introduced by Senator Aldrich which was also filibustered and the resolution failed.

1893: An unsuccessful filibuster lasting 42 days was organized against a bill for the repeal of the Silver Purchase Act.

1901: Senator Carter successfully filibustered a river-and-harbor bill because it failed to include certain additional appropriations.

1902: There was a successful filibuster against the tri-State bill proposing to admit Oklahoma, Arizona, and New Mexico to statehood, because the measure did not include all of Indian Territory according to the original boundaries.

1903: Senator Tillman, of North Carolina, filibustered against a deficiency appropriation bill because it failed to include an item paying his State a war claim. The item was finally replaced in the bill.

1907: Senator Stone filibustered against a ship-subsidy bill.

1908: Senator La Follette led a filibuster lasting 28 days against the Vreeland-Aldrich emergency currency law. The filibuster finally failed.

1911: Senator Owen filibustered a bill proposing to admit New Mexico and Arizona to statehood. The House had accepted New Mexico, but refused Arizona because of her proposed constitution. Senator Owen filibustered against the admission of New Mexico until Arizona was replaced in the measure. The Canadian reciprocity bill passed the House and failed through a filibuster in the Senate. It passed Congress in an extraordinary session but Canada refused to accept the proposition.

1913: A filibuster was made against the omnibus public building bill by Senator Stone, of Missouri, until certain appropriations for his State were included.

1914: Senator Burton, of Ohio, filibustered against a river and harbor bill for 12 hours. Senator Gronna filibustered against acceptance of a conference report on an Indian appropriation bill. In this year also the following bills were debated at great length, but finally passed: Panama Canal tolls bill, 30 days; Federal Trade Commission bill, 30 days; Clayton amendments to the Sherman Act, 21 days; conference report on the Clayton bill, 9 days.

1915: A filibuster was organized against President Wilson's ship-purchase bill by which German ships in American ports would have been purchased. The filibuster was successful and as a result three important appropriation bills failed.

1917: The armed-ship bill of President Wilson was successfully filibustered, and caused the defeat of many administration measures. This caused the adoption of the Martin resolution embodying the President's recommendation for a change in the Senate rules, on limitation of debate.

1919: A filibuster was successful against an oil and mineral leasing bill, causing the failure of several important appropriation bills and necessitating an extraordinary session of Congress.

1921: The emergency tariff bill was filibustered against in January 1921, which led Senator Penrose to present a cloture petition. The cloture petition failed, but the tariff bill finally passed.

1922: The Dyer antilynching bill was successfully filibustered against by a group of southern Senators.

1923: President Harding's ship-subsidy bill was defeated by a filibuster.

1925: Senator Copeland (New York) talked at length against ratification of the Isle of Pines Treaty with Cuba, but the treaty was finally ratified.

1926: A 10-day filibuster against the World Court Protocol was ended by a cloture vote of 68 to 26, the second time cloture was adopted by the Senate. A bill for migratory bird refuges was talked to death by States' rights advocates in the spring of 1926, a motion for cloture failing by a vote of 46 to 33.

1927: Cloture again failed of adoption in 1927 when it was rejected by 32 yeas against 59 nays as a device to end obstruction against the Swing-Johnson bill for development of the lower Colorado River Basin.

One of the fiercest filibusters in recent decades succeeded in March 1927 in preventing an extension of the life of a special campaign investigating committee headed by James A. Reed, of Missouri. The committee's exposé of corruption in the 1926 senatorial election victories of Frank L. Smith in Illinois and of William S. Vare in Pennsylvania had aroused the ire of a few Senators who refused to permit the continuance of the investigation despite the wishes of a clear majority of the Senate.

1933: Early in 1933 a 2-week filibuster was staged against the Glass branch-banking bill in which Huey Long first participated as a leading figure. "Senators found him impervious to sarcasm and no man could silence him." Cloture was defeated by the margin of a single vote. Finally, the filibuster was abandoned and the bill passed.

1935: The most celebrated of the Long filibusters was staged on June 12–13, 1935. Senator Long spoke for 15½ hours, a feat of physical endurance never excelled in the Senate, in favor of the Gore amendment to the proposed extension of the National Industrial Recovery Act. But the amendment was finally tabled.

1938: A 29-day "feather duster" filibuster in January–February 1938 defeated passage of a Federal antilynching bill, although an overwhelming majority of the Senate clearly favored the bill.

1939: An extended filibuster against adoption of a monetary bill, extending Presidential authority to alter the value of the dollar, continued from June 20 to July 5, 1939, but finally failed by a narrow margin.

1942, 1944, 1946, 1948: Four organized filibusters upon the perennial question of Federal anti-poll-tax legislation were successful in these years. An attempt to pass fair employment practice legislation in 1946 was also killed by a filibuster. The present Senate cloture rule proved ineffective in these cases as a device for breaking filibusters.

Mr. MORSE. Mr. President, another argument of the Senator from Georgia was that some things in America cannot be settled by legislation. If this be true—and it may be—the remedy then certainly is not to deny to the Senate a chance to consider legislation in point, but for the Senate and the House to reject a bill, after full debate on the floor of each House, in accordance with a majority vote principle. That is the answer to that argument. But it certainly is no sound argument to set up a straw man and say, by way of assumption, that some things cannot be settled by legislation, and then say, "In order to prove we are right about that, we are going to deny to the majority any chance to try to settle them by legislation. We are going to put up our minority viewpoint as a blockade to any legislative attempt to try to settle things which we, the minority, may think cannot be settled by legislation."

The Senator from Georgia also said, in the course of his speech, that we should not shackle the States with respect to matters which offend their traditions, cultural institutions, and deep convictions. I submit that the Hayden resolution is not proposed to shackle the States. It is a reform, I repeat, in legislative parliamentary procedure. The civil-rights bills, if we want to discuss them at this point, are not designed to shackle the States, but to extend the frontiers of democracy throughout the country, and take the shackles off millions of fellow citizens who are being denied their constitutional rights and liberties in some sections of the country.

The Senator from Georgia refers in the course of his speech to the baneful influences of parties. I think it is clear that he means political parties. There are adequate safeguards, either under the Hayden resolution or the Morse resolution, to protect the minority from what I think the Senator from Georgia has in mind when he talks about the baneful influences of parties.

A few moments ago I listened to a very able and stirring address by the distinguished Senator from Pennsylvania [Mr. MYERS], the Democratic whip, who, although he has left the President of the United States on this issue, nevertheless made perfectly clear this afternoon in his speech that he thinks there is an obligation resting upon the Democratic Party to carry out what he considers to be at least certain party commitments on which a great campaign was waged in this country prior to November 2, 1948. I understood the Senator from Pennsylvania to be talking about giving effect to party responsibility, and urging his Democratic colleagues to keep faith with what he considers to be the pledges of his party in the field of civil rights.

I recognize that there may be those who will characterize his position as an exhibition of the baneful influence of political parties, but I say that by way of legislation we ought to submit such proposals on their merits to the Congress and let the majority decide by majority vote whether or not the pledges of the Democratc Party—yes, and the pledges of the Republican Party—should be given their day in the Senate for submission to a majority vote of the Senate, in order to enact legislation which will make it possible to send those issues to the President for his signature or his veto, and to the United States Supreme Court ultimately for its determination as to whether they are constitutional.

Mr. President, let me say, on the question of the constitutionality of legislation, that if I felt that any piece of legislation in the field of civil rights violated any constitutional provision I would not vote for it, and I would not have my friend, the Senator from Georgia, or any other Senator on the other side of the aisle who may differ with me on the issue of civil rights, vote for a piece of civil-rights legislation which he or they believed contained a single unconstitutional provision, because I believe we must live up to our oaths to support the

Constitution. I have not yet and I never shall vote for a piece of legislation in the Senate which I think contains any unconstitutional provision. But I am never going to take the position that because I think a piece of legislation contains an unconstitutional provision I have a right to organize a fighting minority in the Senate to block the majority from ever voting on such a piece of legislation. I have lived up to my oath when I make my argument against the constitutionality of a legislative proposal, when I cast my vote against it, and then start the legislation on its way to the White House, if it passes, and to litigation, on the way to the courts, for their determination as to its constitutionality.

I do not know, Mr. President, how we are to preserve our democratic form of government if we adopt any other principle in regard to such issues. The principle which it seems to me the gentlemen of the opposition are in fact defending is that they ought to have the right, a right which should be recognized, by physical force and endurance, through a filibuster, to prevent a vote on a piece of legislation to which they are opposed, in their good judgment, reasonable as they may be in their attitude on whether it is Constitutional or unconstitutional.

The word "despotism" has been mentioned in the debate, and I say it is more accurately applied to the position of a minority which wants to block a vote from ever occurring on an issue than to a majority which seeks to live within the checks and balances of our constitutional system of government.

At another place in his remarks the Senator from Georgia said, "You will come to majority rule in the Senate of the United States." Is not that a horrendous prospect? I thought that majority rule was always intended to be the rule governing the passage of legislation in the Senate. I thought that majority rule was the procedure for adopting amendments to the Senate rules. I thought majority rule to be the very essence, so far as a fundamental tenet is concerned, of our republican form of government. I thought that at all levels Federal and local officials are elected, laws are passed, and decisions rendered by majority vote, save and except in specific instances where by words of limitation in organic law exceptions are made to the majority-vote rule. As I said earlier in my speech, no such exception is set forth in the Constitution applicable to the issue to which we are addressing our attention, namely, the right of the Senate of the United States to adopt a parliamentary rule of procedure which will permit the majority to prevail in accordance with such provisions as are contained in the Hayden resolution and the Morse resolution.

At another point the Senator from Georgia said:

> There is an almost irresistible drift toward a larger and larger concentration of power in the Federal Government.

I agree to that statement; and I believe, Mr. President, I have, concerning that drift, some of the same fears the Senator from Georgia entertains. My fears are so deep that I think we must not delay longer in adopting in the Senate of the United States rules which will so improve its efficiency that we can move faster and more expeditiously to check abuses which develop through the great centralization of power in the Federal Government. So I say the drift to which the Senator from Georgia refers, to my way of thinking, presents all the more reason for increasing the efficiency of Congress so that it can cope more effectively in the public's interest with big business, big labor, and big government.

Filibusters weaken and delay the legislative processes and expose the Senate to public ridicule and the loss of public confidence. One has only to look at the calendar before us to see how correct I am as to the effects of a filibuster in producing delay in the enactment of legislation. Already in this debate both the proponents of the filibuster and the opponents of the filibuster have been expressing great concern over the fact that a backlog of vitally important legislation, such as rent control, ECA legislation, agricultural legislation, appropriation legislation—all vital to the welfare of the country—is beginning to pile up. No one should be surprised at that argument. It is the stereotyped argument. If Senators will read the past history of filibusters in the Senate they will find that the filibusterers say, in effect, "Yield now to us, the minority, because if you do not yield to us now you will be simply a party to piling up higher and higher important pieces of legislation which should be passed in the public's interest, because we will not let you vote on that legislation unless you withdraw the particular matter now before the Senate on which we are filibustering."

Mr. President, I have not analyzed myself sufficiently well to know just why it is that temperamentally, intellectually, yes constitutionally, I cannot yield to that sort of intimidation, and I never shall. I think the people of the United States had better understand the true meaning of that particular technique of the filibuster, because when they analyze its true meaning, then I think they will have a more adequate understanding of the common definition of a word which has crept into this debate, namely, "despotism."

In the course of his remarks the distinguished Senator from Georgia said:

> These proposals—
>
> Referring to the civil-rights bills—
>
> are essentially revolutionary.

I file my dissent to that conclusion and observation, because I do not think it is at all revolutionary to propose by law to abolish the poll tax, to outlaw lynching, and to promote fair employment practices.

As to the merits of such legislation, Members of the Senate can have many honest differences of opinion, but as to any conclusion that it is revolutionary, such a conclusion I think has to be based upon the assumption that giving to all the people of the country, irrespective of race, color, or creed, full protection to their constitutional rights, full constitutional liberties written into the organic law by the founding fathers, is revolutionary. To state the argument is to answer it. Revolutionary? No. Unfortunately, however, it represents a process of evolution we have had to develop in the field of civil rights, as the result of the already too long delay caused by refusal to accept, in some sections of the country, a full recognition of the fact that discrimination on the basis of race, color, or creed cannot be reconciled with constitutional guarantees.

At another point in his notable address the Senator from Georgia said:

> It is impossible, except through revolution, ever to take away the equality of representation in the Senate.

As I stated to him earlier in our colloquy, no one is proposing to take away that equality. I think that is a false, bogey argument. That equality does not confer, however, upon any State or group of States, the right to prevent the Senate from considering and enacting legislation. The business of an organism is to function, and the constitutional rights and duties of the Senate call upon us to legislate, leaving to the other branches of Government the opportunity to exercise their checks upon us if we legislate contrary to the organic law.

The last comment I shall make on the distinguished Senator's remarks of February 28 is his reference to the formation of political policies along sectional lines. I deplore that, too. But I ask, What is the basic cause of the sectional aspect of some proposed legislation? I say out of deep conviction that I think the basic cause is to be found in the cultural lag of the South behind the political and economic standards of the rest of the country, plus the unwillingness of many southern leaders to use their influence in extending the frontiers of political and economic democracy in that region.

I recognize it is going to take time to satisfy the many needs of the South that need to be satisfied in order to give it comparable standing economically with other parts of the country. I have said before, and I now repeat, that we cannot do these things overnight. I do not happen to be one who believes that it would be in the best interests of the South or of the Nation overnight to put into effect all the reforms which the civil righters want to put into effect. I am severely criticized by some of them because I have taken that position. Of course, we cannot make progress, as I said before, by way of a social avalanche. But I do say that we cannot even take the first steps until the Senate changes its rules so that at least we can pass some legislation which will give hope to millions of our fellow citizens for a full share of the liberty and freedom which those of white skin are entitled to enjoy under the Constitution.

On January 27, 1949, I addressed a letter to the Senator from Arizona [Mr. HAYDEN] in answer to a point which he made, and a point which the Senator from Georgia [Mr. GEORGE] made in his speech on February 28, the Senator from

Arizona having set forth to me the fear that, if my resolution were adopted, at some subsequent time there might be a further change of the rule which would permit, not 96 hours of debate, but of a lesser time. In order that the RECORD may be complete, and in order that it may show that I have conscientiously tried to work out a conscionable compromise with those who have a vitally and fundamentally different point of view on this subject, I wish to read the letter of January 27 which I wrote to the Senator from Arizona:

JANUARY 27, 1949.

HON. CARL HAYDEN,
United States Senator,
Washington, D. C.

DEAR SENATOR: You will recall that in conversation with me at the time I introduced my resolution (S. Res. 12) to amend the cloture rule, as well as in statements during the hearing (see discussion at pages 66–69 of the transcript) on the pending cloture resolutions, you pointed out that if rule XXII were amended as I suggest in my resolution, to permit cloture to be voted by a majority, then in the future that rule or any other could be amended by a simple majority so as to further curtail freedom of debate.

While a majority may now amend the rules, I recognize that if the cloture rule were changed so as to permit cloture to be voted by a majority then the circumstance to which you refer could occur; and conceivably the guaranties to the minority contained in my resolution could be reduced. While I feel that the danger to which you refer is not likely to occur, your committee may wish to consider the following suggestion:

If, in addition to a rule such as is embodied in my resolution, rule XL were amended at the same time to provide that a two-thirds vote would be necessary to amend that portion of rule XXII relating to cloture, the danger you envisage would be minimized. The result of such a combination of amendments to the rules would be that cloture could be applied by majority rule but the guaranties of adequate time for debate could be changed only by a two-thirds vote.

I considered proposing such a change as a formal part of my resolution, but I decided that there was no practical danger that the safeguards contained in my resolution would, if adopted, be cut down at a later time. Therefore, I limited my resolution to amending rule XXII. I still feel the same way, but in view of the fears you and others have expressed, I thought it might be helpful to offer this additional suggestion for your consideration.

With kindest regards.

Sincerely yours,

WAYNE MORSE,
United States Senator.

Mr. President, if and when we get into such a position that amendments to the Hayden resolution can be offered, I intend to offer my resolution, Senate Resolution 12, calling for cloture by majority vote with 96 hours of debating time after cloture has been adopted, with the right to farm out the time, plus a further amendment along the lines of the letter which I wrote to the Senator from Arizona on January 27.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. MORSE. Just a moment. The amendment I have suggested would provide that thereafter the provision as to the length of time allowed the minority to debate after cloture had been adopted shall not be changed except by a two-thirds vote.

Mr. RUSSELL and Mr. HAYDEN addressed the Chair.

The VICE PRESIDENT. Does the Senator from Oregon yield, and if so to whom?

Mr. MORSE. I yield first to the Senator from Georgia. First, let me state the condition under which I yield. I yield for a question only, and with the understanding that the Senator to whom I yield will not seek to offer parliamentarily any matter which will take me from the floor.

The VICE PRESIDENT. The Senator can yield only for a question; and if any interrupting Senator does not ask a question, the Senator can protect himself by refusing to yield further.

Mr. MORSE. I yield for a question.

Mr. RUSSELL. I assure the Senator that I shall only ask a question.

Mr. MORSE. I yield for a question.

Mr. RUSSELL. Am I to understand from the statement just made by the distinguished Senator from Oregon that every matter to come before the Senate should be submitted to a pure majority vote, except the one final work of perfection, the resolution proposed by the Senator himself, allowing majority cloture, which can never be assailed in the future except by a two-thirds vote? Is that the position of the Senator?

Mr. MORSE. I will tell the Senator what my position is. I think it is fundamental that we adopt a cloture rule which will permit of proceeding with legislation and voting on legislation by way of a majority vote; and because I think it is so fundamental to preserving the democratic form of government in the Senate that we must adopt a majority-vote principle in order to stop a minority from filibustering us into inaction on a particular piece of legislation, I am willing to try to work out with those who say they fear my resolution will threaten and jeopardize minority rights in the Senate to the degree of denying the minority adequate time to debate an issue on the merits, some conscionable compromise which will give the minority assurance that they are to have at least 96 hours after cloture has been adopted, to debate an issue, unless, under my proposal for cloture limitation, in that particular respect two-thirds of the Senate decide to reduce the 96 hours to a further limitation of time.

Mr. RUSSELL. Mr. President, will the Senator yield for a further question?

Mr. MORSE. I yield for a question only.

Mr. RUSSELL. It is the position of the Senator that any question before the Senate should be decided on a majority basis except the one rule which the Senator himself proposes to write, which shall be sacrosanct, and can be assailed only by a two-thirds vote of the Senate?

Mr. MORSE. First, let me say that I do not propose to write it. I simply propose to yield to Senators who I think represent the minority point of view in this matter, and that in order to remove some of their fears about the majority not giving them adequate time to express the minority point of view, I am willing that they be given greater protection.

Mr. RUSSELL. Does not the Senator think it is somewhat unfair to denounce those of us who oppose the imposition of cloture or gag rule by a mere majority, while at the same time seeking to preserve, with the protection of a necessary two-thirds vote, the rule which he insists should be written?

Mr. MORSE. No; I do not think there is anything unfair about it. On the other hand, I think I am clearly demonstrating great fairness in trying to answer the argument of the minority that if my so-called simple majority rule is adopted for limiting debate, at some subsequent time the majority may try to take away from the minority the 96 hours of debate assured them under my rule.

Mr. RUSSELL. Mr. President, will the Senator yield for a further question?

Mr. MORSE. I yield for a question.

Mr. RUSSELL. Does not the Senator think that he should be a little more tolerant of the views of those who are seeking to protect themselves by a two-thirds rule, inasmuch as he himself is seeking to protect his provision by a two-thirds requirement that he proposes to write into the rule?

Mr. MORSE. Mr. President, the Senator from Georgia is mistaken if he thinks I am trying to protect my provision by a two-thirds rule. I want my provision as is; but many of the Senators on the minority side of this question have argued that my provision may, some time in future, be changed to provide for cloture by a simple majority vote so as to deny the minority a reasonable time to debate. Unless the Senator from Georgia wishes to take the position that after cloture is invoked 96 hours is not adequate time in which to debate the merits of the issue—and, of course, those 96 hours would come after all the time that would be available prior to the invoking of cloture—I see nothing at all unreasonable about my offer of compromise.

I hasten to add that I do not prefer the compromise; however, I offer it in good faith only to assure those of the minority that I am willing to work out any conscionable proposal which will accomplish what I think is fundamental, namely, a basic rule which provides cloture may be applied by a majority vote and that after cloture is applied or invoked the minority shall be given 96 hours in which to debate the merits of their position.

Mr. RUSSELL. Mr. President——

The VICE PRESIDENT. Does the Senator from Oregon yield for a further question?

Mr. MORSE. I yield for a question.

Mr. RUSSELL. Mr. President, it is impossible to carry on this discussion in the form of a question and really express my views, so I shall desist.

Mr. MORSE. Mr. President, I should like to point out that throughout this debate I have not heard any mention of the rules of debate which prevail in legislative bodies generally in this country. Of course, the rules of other legislative bodies are not controlling in regard to our decision; I am perfectly aware of the fact that in a great many respects the Congress of the United States, which is created by the Federal Constitution, and is a part of a Federal Government of delegated powers, is quite a different legislative body from the legislatures of the States; but I am also aware of the fact that the legislative bodies of the States and the Congress of the United States have many similarities, many points in common. I think they certainly have one great common denominator, which is a general recognition on the part of the people of the country that legislative bodies, representing the people of the country either on a Federal level or on a State level, ought to carry out the people's will by way of a majority principle.

So I thought it would be rather interesting to find out what are the rules in the various State legislatures in regard to limitations upon debate, and to see whether, when I propose in the Senate of the United States the adoption of a majority-vote principle, I have proposed a parliamentary monstrosity which endangers the very foundation of our form of government. As I have listened to some of my friends of the opposition during this debate, I sometimes have asked myself the question, "What is it that you are proposing that is so terrible, so threatening to the perpetuation of democratic forms in this country?" Then I have reflected for a moment, and I have recognized that all I am offering is to put into practice a parliamentary procedure that is common throughout the Nation in the various State legislatures; and then I have felt a little better about it, because even momentarily I do not like to entertain the suspicion of a fear that I am proposing something that is revolutionary, as has been said by implication here on the floor of the Senate, in its effect on our great freedoms and liberties, as guaranteed by the Constitution, which I am just as desirous of defending as is any member of the opposition.

So I requested the Legislative Reference Service of the Library of Congress to prepare for me a study of the practices which prevail in the various States. I wish to read a few excerpts from those findings. I am satisfied—having checked them by a sampling process—that it is a very fine piece of research work which has been submitted to us, and I wish to give the entire Senate the benefit of the information set forth in the study.

The study shows that—

Examination of the rules of procedure in effect in the several State legislatures indicates that four major approaches are followed in an effort to limit debates. These are: (1) limitation on the number of times a member may speak to any single question; (2) limitation on the length of time a member may speak; (3) use of the previous-question motion to cut off debate; and (4) special forms of cloture.

Now let us see very briefly what is the general finding in regard to each one of these methods of limiting debate:

1. Limitation on number of times a member may speak: With but isolated exceptions, the rules of State senates and houses of representatives alike limit the number of times any member may speak on a single question at a single stage in procedure. The number specified is commonly twice, with a proviso that a member may not even speak the second time until all who desire to speak once have done so. Exceptions are, however, commonly made in favor of committee chairman, bill sponsors, etc.

2. Duration of normally permitted debate: About half of the legislative chambers go further and specify that, at least on a given day or at a given stage in procedure, a member may not speak in excess of a limited period of time without unanimous consent or other permission. Periods as short as 5 to 10 minutes are found (Oklahoma House and Senate respectively); a 30-minute limitation is common; while 1 hour (Alabama Senate and Arizona House); and 2-hour specifications (South Carolina and Colorado Senates) are also found. In some instances there are ever more restrictive time limits in force for debate on special subjects, e. g., questions of privilege.

Mr. President, what about the technique by way of moving the previous question: We find that—

Most State legislatures specifically permit use of the motion for the previous question as a device for cutting off debate, and word their rules so as to facilitate its use. Only two legislative chambers (the Senates of Utah and Vermont) are known to forbid the motion.

4. Other forms of cloture: In view of the frequency of provisions of the above types, it is obvious that the State legislatures do not have any great need for other forms of cloture. The following are some examples of those special cloture rules known to exist.

Mr. President, without taking time to read it, I ask unanimous consent to have the entire memorandum inserted at this point in the RECORD as a part of my remarks.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

LIMITATION OF DEBATE IN STATE LEGISLATURES

Examination of the rules of procedure in effect in the several State legislatures indicates that four major approaches are followed in an effort to limit debate. These are: (1) limitation on the number of times a member may speak to any single question; (2) limitation on the length of time a member may speak; (3) use of the previous-question motion to cut off debate; and (4) special forms of cloture.

1. Limitation on number of times a member may speak: With but isolated exceptions the rules of State senates and houses of representatives alike limit the number of times any member may speak on a single question at a single stage in procedure. The number specified is commonly twice, with a proviso that a member may not even speak the second time until all who desire to speak once have done so. Exceptions are, however, commonly made in favor of committee chairmen, bill sponsors, etc.

2. Duration of normally permitted debate: About half of the legislative chambers go further and specify that, at least on a given day or at a given stage in procedure, a member may not speak in excess of a limited period of time without unanimous consent or other permission. Periods as short as 5 to 10 minutes are found (Oklahoma house and senate respectively); a 30-minute limitation is common; while one-hour (Alabama senate and Arizona house) and two-hour specifications (South Carolina and Colorado senates) are also found. In some instances there are even more restrictive time limits in force for debate on special subjects, e. g. questions of privilege.

3. Previous question: Most State legislatures specifically permit use of the motion for the previous question as a device for cutting off debate, and word their rules so as to facilitate its use. Only two legislative chambers (the senates of Utah and Vermont) are known to forbid the motion.

4. Other forms of cloture: In view of the frequency of provisions of the above types it is obvious that the State legislatures do not have any great need for other forms of cloture. The following are some examples of those special cloture rules known to exist.

New York Senate, rule XIV, section 1, paragraphs 3 and 4:

"When any bill, resolution or motion shall have been under consideration for 2 hours, it shall be in order for any senator to move to close debate, and the president shall recognize the senator who wishes to make such motion. Such motion shall not be amendable or debatable and shall be immediately put, and if it shall receive the affirmative vote of a majority of the senators present, the pending measure shall take precedence over all other business.

"The vote shall thereupon be taken upon such bill, resolution or motion with such amendments as may be pending at the time of such motion, according to the rules of the senate, but without further debate, except that any senator who may desire to do so shall be permitted to speak thereon not more than once and not exceeding 5 minutes; upon the roll call any senator may speak not to exceed 5 minutes in explanation of his vote." (New Mexico Senate has a variant of this applicable after 6 hours with 30 minutes allowed subsequently.)

Alabama Senate, rule 34:

"The committee on rules may at any time report a special rule that debate on a pending measure shall cease at a certain hour, and a vote be taken on the measure. The consideration of such special rule shall not exceed 30 minutes, when a vote shall be taken thereon."

Indiana Senate, rule 51, paragraph 2:

"The senate at any time, by resolution adopted by a majority of the senators-elect, may further limit the time of debate." (E. g., shorten normal half-hour allowed each member.)

Louisiana Senate, rule 9, second paragraph:

"The Senate may at any time, by a majority vote, limit debate so that no senator shall be permitted to speak longer than 1 hour at one time without permission of the senate, and a motion to that effect shall be in order at any time, taking precedence over every other motion, except a motion to adjourn." (Par. 1 prohibits a member from speaking more than twice to any question without permission of the senate.)

Massachusetts Senate, rule 47:

"Debate may be closed at any time not less than 1 hour from the adoption of a motion to that effect. On this motion not more than 10 minutes shall be allowed for debate, and no member shall speak more than 3 minutes." (Motion has high priority under rule 46.)

Colorado Senate, rule X, paragraph 2:

"Debate may be closed at any time not less than 1 hour from the adoption of a motion

to that effect, and upon a majority vote of the members-elect an hour may be fixed for a vote upon the pending measure. On either of these motions not more than 10 minutes shall be allowed for debate, and no Senator shall speak more than 3 minutes; and no other motion shall be entertained until the motion to close debate, or to fix an hour for the vote on the pending question, shall have been determined."

Rhode Island Senate rule 23, is the most comprehensive existing, to our knowledge, and is quoted below:

"When any bill, resolution or motion shall have been under consideration for 2 hours it shall be in order for any senator to move to close debate, and the president shall immediately recognize the senator who wishes to make such motion. Such motion shall not be amendable or debatable and shall be immediately put. The motion to close debate may be moved and ordered upon a single motion, or an amendment or amendments, or may be made to embrace all pending amendments and include the bill, resolution, or motion to its passage or rejection. If such motion to close debate shall receive the affirmative votes of a majority of the senators present, a vote without further debate shall thereupon be taken upon such bill, resolution, or motion, provided that any senator who desires so to do shall be permitted to speak thereon not more than once and not exceeding 5 minutes, and provided further that one motion to adjourn shall be in order before such vote is taken. Should said motion to adjourn be carried, the measure under consideration shall be the unfinished business of the senate until disposed of. All incidental questions of order pending at the time of such motion to close debate is made, and on such questions arising after a motion to close debate has been made and before the final vote has been taken on the matter or matters to which the motion to close debate shall have been directed whether the same be an appeal or otherwise, shall be decided without debate."

Mr. MORSE. Mr. President, I also ask unanimous consent to have inserted at this point in the RECORD, as a part of my remarks, a tabulation of the rules of the various State legislatures in respect to the following points: The number of times a member may speak without leave; the duration of permitted remarks; the motion for previous question authorized; and other cloture rules. This tabulation is complete, and I ask consent to have it incorporated at this point in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

	Number of times member may speak without leave [1]		Duration of permitted remarks [2]		Motion for previous question authorized? [3]		Other cloture rules (for text of statute)	
	Senate	House	Senate	House	Senate	House	Senate	House
Alabama	2	2	1 hour	10 minutes		Yes	Rule 34	
Arizona		[4] 2		1 hour [5]	Yes	Yes		Rule 9 (9).
Arkansas	1	1	1 hour [5]	1 hour [5]	Yes	Yes	Rule [6]	Rule 15.
California	[4] [7] 2	[7] 1		5 minutes	Yes	Yes		
Colorado	[7] 2	1	2 hours [5]	10 minutes [5]		Yes	Rule 10 (2)	
Connecticut	2	2				Yes		
Delaware	[7] 2	2				Yes		
Florida	[4] 2	[4] 2	30 minutes	30 minutes [5]		Yes		
Georgia	[4] 2	[4] 2	30 minutes	1 hour [5]	Yes	Yes		
Idaho	[7] 2	[4] 2		1 hour	Yes	Yes		
Illinois	[4] 2	1	15 minutes	30 minutes	Yes	Yes		
Indiana	1	[4] 2	30 minutes [5]		Yes	Yes	Rule 15 (2)	
Iowa		[9] 1		[10]	Yes	Yes		
Kansas	[7] 2	1			Yes	Yes		
Kentucky	[4]	[4] 2	1 hour [5]	30 minutes [5]	Yes	Yes		Rule 12.
Louisiana	2	[4] 2		30 minutes	Yes	Yes	Rule 9	
Maine	[11] 3	2				Yes		
Maryland	[4] [12]	[4] 2				Yes		
Massachusetts	[4]	[4]				Yes	Rule 47	Rule 85.
Michigan	[7] 2	1			Yes	Yes		
Minnesota	[7] 2	[4] 2	[13]		Yes	Yes		
Mississippi	[4] 2	[4]	5–20 minutes [14]	5–10 minutes [15]	Yes	Yes	Rule [16]	
Missouri	1	[4] 2		15 minutes [12]	Yes	Yes		
Montana	[7] 2	1		30 minutes [5]	Yes	Yes		
Nebraska	[7] 2				Yes			
Nevada	[4] [7] 2	[4] [7] 2			Yes	Yes		
New Hampshire	[7] 2	[4] 2			Yes	Yes		
New Jersey	3	2		5–15 minutes [3] [17]		Yes		
New Mexico	[4] [7] 2	[4] [7]	[18]		Yes	Yes	Rule 65	Rule 78.
New York	[7] 2	2		15 minutes [5]		Yes	Rule 14 (3) (4)	
North Carolina	[7] 2	[20] 2	30 minutes [7]	10–30 minutes [21]	Yes	Yes		Rule 19.
North Dakota	[4] 2	[4] 2	5–10 minutes [22]	5–10 minutes [22]	Yes	Yes		
Ohio	2	[5] 2		20 minutes [7]	Yes	Yes		
Oklahoma	[4] [23] 2	[4] 2	5–10 minutes [24]	5 minutes	Yes	Yes		Rules 36, 37.
Oregon	2	[4] 2	[25]		Yes	Yes		
Pennsylvania	2	2			Yes	Yes	Rule 9	
Rhode Island	[4] 2	[4] 2			Yes	Yes	Rule 23	Rule 21.
South Carolina	[7] 2	[5] 2	2 hours [7]			Yes	Rule 14	
South Dakota	[4] 2	[5] 2	10 minutes	10 minutes	Yes	Yes		
Tennessee	[4] 2		10–20 minutes [26]	10–15 minutes [27]	Yes	Yes		
Texas	[4] 2	[4] 2		10 minutes [28]	Yes	Yes		

[1] These are the general provisions as to the number of times a member may speak on a given issue. Where 2 is the rule, it is commonly stated that no member may speak his second time until all desiring to speak once have done so. Special provisos are often made, but not listed here, for committee chairmen, bill sponsors, movers of the question, etc. Moreover, special allowances are usually found for committee of the whole and certain types of business.

[2] These are the general provisions as to the length of debate. Special limits sometimes exist for particular classes of members or types of business.

[3] Frequently accompanied by special provisions tending toward an immediate vote.

[4] No member may speak more than once on a question until every other member desiring to be heard has spoken.

[5] In the aggregate on any question.

[6] Unnumbered rule on previous question, sec. 2.

[7] In any one day on the same question.

[8] During the last 25 days of the session members shall not speak longer than 10 minutes at any one time.

[9] Members may speak only once without leave, and may not speak more than twice to a question until every member desiring to speak has spoken.

[10] When bills are being considered prior to their last reading, debate thereon is limited to 10 minutes to each member.

[11] No senator may speak more than once to the exclusion of others, if objection is made without leave.

[12] Except by unanimous consent.

[13] In discussing any resolution, senators are limited to 5 minutes each.

[14] 20 minutes is allowed a member to speak to the main question, and 5 minutes on a subsidiary question; when the time of a senator is extended by leave of the senate, it must be for a specific period.

[15] No member may ordinarily speak more than 10 minutes on any main question, or 5 minutes on an amendment, without leave.

[16] Rule on Motions and Amendments in listing the precedence of motions (preceding Rule 64) lists the motion to close debate at a specific time.

[17] No member shall speak on any question longer than 15 minutes the first time or 5 minutes the second time, without leave.

[18] During the last 3 days of the session no member may speak longer than 10 minutes on any one question.

[19] Except by consent of two-thirds of the members present.

[20] No member may speak more than once on amendments or certain motions.

[21] No member may speak on a question longer than 30 minutes for the first speech and 15 minutes for the second speech, without leave; nor may he speak longer than 10 minutes on an amendment or certain motions.

[22] No member may speak to a question longer than 10 minutes the first time or 5 minutes the second time, except by unanimous consent.

[23] Members may speak only once to an amendment to a question or a substitute question.

[24] No member may consume more than 10 minutes in debate on a question without the unanimous consent of the senate; and he may consume only 5 minutes when considering bills on general order, without such consent.

[25] During the last 10 days of the session, no member except the author of a bill shall be permitted to speak on its final passage for longer than 5 minutes, but members may waive their time in favor of another member; during those 10 days no member may speak on a motion or resolution longer than 3 minutes.

[26] No member may speak to a question longer than 20 minutes in the first speech and 10 minutes in the second.

[27] No member may speak to a question longer than 15 minutes in the first speech and 10 minutes in the second.

[28] The house by vote may extend the time allowed for only 10 minutes; but during the last 10 days of a regular session and the last 5 days of a special session the extension may be for 5 minutes only, and such extension requires unanimous consent.

	Number of times member may speak without leave		Duration of permitted remarks		Motion for previous question authorized?		Other cloture rules (for text of statute)	
	Senate	House	Senate	House	Senate	House	Senate	House
Utah	[4] 2	[4] 2			Prohibited	Yes		Rule 29.
Vermont	4 2	4 2			Prohibited			
Virginia	4 2	4 2			Yes	Yes		
Washington	[4] 2	[29] 2		10 minutes [29]	Yes	Yes		
West Virginia	5 2	5 2			Yes	Yes		Rule 38.
Wisconsin	5 2	5 2			Yes	Yes		
Wyoming	7 2	[4] 2	[30]		Yes	Yes		

[4] No member may speak more than once on a question until every other member desiring to be heard has spoken.

[5] In the aggregate on any question.

[7] In any one day on the same question.

[29] After the first 50 days of the session no member shall ordinarily speak more than once to the same question, without leave, or longer than 3 minutes.

[30] Any member is limited in debate on bills on third reading or amendments thereto to speaking not more than twice on the bill or on any one amendment, and may consume not more than 5 minutes each time he speaks.

Alabama Senate Rule 34: "The Committee on Rules may at any time report a special rule that debate on a pending measure shall cease at a certain hour, and a vote be taken on the measure. The consideration of such special rule shall not exceed 30 minutes, when a vote shall be taken thereon."

Arizona House Rule IX, par. 9: "There shall be no debate at the third reading of a bill except by a two-thirds vote of all members elected to the House."

Arkansas Senate Unnumbered Rule on Previous Question, sec. 2: "The previous question is the only motion used for closing debate in the Senate itself except the motion to immediately consider * * *."

Arkansas House Rule XV, sec 2: "The previous question is the only motion used for closing debate in the House itself except the motion to immediately consider * * *."

Colorado Senate Rule X, par. 2: "Debate may be closed at any time not less than one hour from the adoption of a motion to that effect, and upon a majority vote of the members-elect an hour may be fixed for a vote upon the pending measure. On either of these motions not more than ten minutes shall be allowed for debate, and no Senator shall speak more than three minutes; and no other motion shall be entertained until the motion to close debate, or to fix an hour for the vote on the pending question, shall have been determined."

Indiana Senate Rule 51: "Second.— * * * The Senate at any time, by resolution adopted by a majority of the Senators-elect, may further limit the time of debate."

Kentucky House Rule 12: "A motion to limit debate being moved and seconded, the question from the Chair shall be, 'Shall debate be limited?' A majority of the members present may limit debate to the time specified in the motion at any time. The Speaker shall proportion the time each member may speak under the motion to limit debate."

Louisiana Senate Rule 9: "* * * The Senate may at any time, by a majority vote, limit debate so that no Senator shall be permitted to speak longer than one hour at one time without permission of the Senate, and a motion to that effect shall be in order at any time, taking precedence over every other motion, except a motion to adjourn."

Massachusetts Senate Rule 47: "Debate may be closed at any time not less than one hour from the adoption of a motion to that effect. On this motion not more than ten minutes shall be allowed for debate, and no member shall speak more than three minutes."

Massachusetts House Rule 85: "Debate may be closed at any time not less than thirty minutes from the adoption of a motion to that effect. In case the time is extended by unanimous consent, the same rule shall apply at the end of the extended time as at the time originally fixed."

Mississippi Senate unnumbered rule: "Chamber provides for a motion to close debate but rule gives no details."

New Mexico Senate Rule 65: "When any bill, resolution or motion shall have been under consideration for six hours, it shall be in order for any Senator to move to close the debate, and the President shall recognize the Senator who wishes to make such motion. Such motion shall not be amendable or debatable and shall be immediately put, and if it shall receive affirmative votes of a majority of the Senators present, the pending measure shall take precedence over all other business. The vote shall thereupon be taken upon such bill, motion or resolution, with such amendments as may be pending at the time of such motion, according to the rules of the Senate, but without further debate, except that any Senator who may desire so to do shall be permitted to speak thereon not more than once and not exceeding one-half hour. After such motion to close debate has been made by any Senator no other motion shall be in order until such motion has been voted upon by the Senate. After the Senate shall have adopted the motion to close debate, as hereinbefore provided, no motion shall be in order but one motion to adjourn and a motion to commit. Should said motion to adjourn be carried, the measure under consideration shall be the pending question when the Senate shall again convene, and shall be taken up at the point where it was at the time of such adjournment. The motion to close debate may be ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill, resolution or motion to its passage or rejection. All incidental questions of order, or motions pending at the time such motion is made to close debate, whether the same be on appeal or otherwise, shall be decided without debate. Provided, however, that debate upon contested election cases shall be limited to sixty minutes. Upon such question no Senator shall consume more than three minutes in debate thereof and no Senator shall speak more than once."

New Mexico House Rule 78: "When any bill, resolution or motion shall have been under consideration for three hours it shall be in order for any member to move to close debate, and the Speaker shall recognize the member who wishes to make such motion. Such motion shall not be amendable or debatable and shall be immediately put, and if it shall receive the affirmative votes of a majority of the members present, the pending measure shall take precedence over all other business. The vote shall thereupon be taken upon such bill, motion or resolution, with such amendments as may be pending at the time of such debate. After such motion to close debate has been made by any member no other motion shall be in order until such motion has been voted upon by the House. After the House shall have adopted the motion to close debate, as hereinbefore provided, no motion shall be in order but one motion to adjourn and a motion to recommit. The motion to close debate may be ordered upon a single motion, a series of motions allowable under the rules, or may be made to embrace all authorized motions or amendments and include the bill, resolution or motion to its passage or rejection. All incidental questions or orders, or motions pending at the time such a motion is made to close debate, whether the same be an appeal or otherwise, shall be decided without debate."

New York Senate Rule 14, secs. 3 and 4:

"SEC. 3. When any bill, resolution or motion shall have been under consideration for two hours, it shall be in order for any Senator to move to close debate, and the President shall recognize the Senator who wishes to make such motion. Such motion shall not be amendable or debatable and shall be immediately put, and if it shall receive the affirmative vote of a majority of the Senators present, the pending measure shall take precedence over all other business.

"SEC. 4. The vote shall thereupon be taken upon such bill, resolution or motion with such amendments as may be pending at the time of such motion, according to the Rules of the Senate, but without further debate, except that any Senator who may desire so to do shall be permitted to speak thereon not more than once and not exceeding five minutes; upon the roll call any Senator may speak not to exceed five minutes in explanation of his vote. After such motion to close debate has been made by any Senator, no other motion shall be in order until such motion has been voted upon by the Senate. After the Senate shall have adopted the motion to close debate, as hereinbefore provided, no motion shall be in order but one motion to adjourn or for a call of the Senate by the Temporary President, and a motion to commit. Should said motion to adjourn be carried, the measure under consideration shall be the pending question when the Senate shall again convene, and shall be taken up at the point where it was at the time of such adjournment. The motion to close debate may be ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments, and include the bill, resolution or motion to its passage or rejection. All incidental questions of order or motions pending at the time such motion is made to close debate, whether the same be on appeal or otherwise, shall be decided without debate."

North Carolina House Rule 19: "No member shall speak more than twice on the main question, nor longer than thirty minutes for the first speech and fifteen minutes for the second speech, unless allowed to do so by the affirmative vote of a majority of the members present; nor shall he speak more than once upon an amendment or motion to commit or postpone, and then not longer than ten minutes. But the House may, by consent of a majority, suspend the operations of this rule during any debate on any particular question before the House, or the Committee on Rules may bring in a special rule that shall be applicable to the debate on any bill."

Oklahoma House Rules 36 and 37: "These rules give each side 30 minutes in the aggregate to debate on final passage of a bill; provided, that when a bill or resolution carries an emergency section such section shall constitute a separate question, to be debatable for an aggregate of ten minutes, five minutes to be allotted each side. When there is a majority and minority committee report, five minutes is allotted each side for debate on the question of receiving the majority or minority report."

Pennsylvania Senate Rule 9: This rule lists a motion to limit or extend the limits on debate, but the rule gives no details.

Rhode Island Senate Rule 23: "When any bill, resolution, or motion shall have been under consideration for two hours it shall be in order for any senator to move to close debate, and the president shall immediately recognize the senator who wishes to make such motion. Such motion shall not be amendable or debatable and shall be immediately put. The motion to close debate may be moved and ordered upon a single motion, or an amendment or amendments, or may be made to embrace all pending amendments and include the bill, resolution, or motion to its passage or rejection. If such motion to close debate shall receive the affirmative votes of a majority of the senators present, a vote without further debate shall thereupon be taken upon such bill, resolution or motion, with such amendments as may be pending at the time of such motion, provided that any senator who desires so to do shall be permitted to speak thereon not more than once and not exceeding five minutes, and provided further that one motion to adjourn shall be in order before such vote is taken. Should said motion to adjourn be carried, the measure under consideration shall be the unfinished business of the senate until disposed of. All incidental questions of order pending at the time of such motion to close debate is made, and on such questions arising after a motion to close debate has been made and before the final vote has been taken on the matter or matters to which the motion to close debate shall have been directed whether the same be an appeal or otherwise, shall be decided without debate."

Rhode Island House Rule 21: This rule provides for a motion to fix a time for closing debate, but the rule gives no details.

South Carolina Senate Rule 14: "* * * the debate on any question and the time when such question shall be voted upon may be fixed by a vote of two-thirds of the Senate; and the debate on the question of fixing such time shall be limited within the discretion of the chair; and such motions shall have precedence of [other designated] motions * * *."

Utah House Rule 29: This rule provides for a motion to limit debate, but the rule gives no details.

West Virginia House Rule 38: "* * * The House by majority vote may limit debate on any question."

LIMITATIONS ON DEBATE ADOPTED BY THE SENATE

Mr. MORSE. Mr. President, in the course of debate it has been stated in effect that opponents of either my cloture rule or the proposed Hayden rule sometimes say one of the great traditions of the Senate is that it has carried on its proceedings for more than a century and a half without any effective limitation upon debate, so why change now? I should like to read now a memorandum showing that the Senate rules provided for a motion for the previous question during the first 17 years of its existence, and that a dozen other limitations upon debate have been adopted by the Senate over the passing years. Rather than take the time to read it, because I have talked longer than I intended, I ask unanimous consent to have the memorandum entitled "Limitations on Debate Adopted by the Senate in the Past" inserted in the RECORD at this point, in rebuttal of the argument that we have gone along for 150 years without any rules or limitation of debate, so why adopt one now?

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

LIMITATIONS ON DEBATE ADOPTED BY THE SENATE IN THE PAST

1. From 1789 to 1806 the Senate rules provided for a previous question motion which, if adopted by majority vote, had the effect of ending debate and bringing a question to a vote.

2. Since 1846 the Senate has frequently adopted unanimous-consent agreements which are a species of cloture.

3. During the Civil War debate in secret session on matters relating to the rebellion was limited by rule to 5 minutes by any Member and was confined to the subject matter.

4. In 1868 the Senate adopted a rule providing that motions to take up or proceed to the consideration of any question should be determined without debate.

5. In 1870 the Senate adopted the Anthony rule limiting debate on the call of the calendar to one 5-minute speech per Senator on any question. The Anthony rule was made a standing rule in 1880. (Rule VIII.)

6. During the 1870's Senate debate on appropriation bills was limited by the 5-minute rule.

7. In 1881 the Senate agreed, for the remainder of the session, to limit debate to 15 minutes on a motion to consider a bill or resolution, no Senator to speak more than once or for longer than 5 minutes.

8. In 1884 the Senate amended its rules to provide that all motions made before 2 o'clock to proceed to the consideration of any matter shall be determined without debate. (Rule VIII.)

9. In 1884 the Senate amended its tenth rule so as to provide that all motions to change the order of precedence on special orders, or to proceed to the consideration of other business, should be decided without debate.

10. In 1884 the Senate provided by rule that motions to lay before the Senate any bill or other matter sent to the Senate by the President or the House of Representatives should be determined without debate. (Rule VII, 7.)

11. In 1908 it was decided that Senators could, by enforcement of the rules, be restrained from speaking on the same subject more than twice in the same legislative day.

12. In 1917 the Senate adopted its present cloture rule. (Rule XXII.)

13. In 1939 and 1945 the Senate passed executive reorganization acts containing an antifilibuster rule.

Mr. MORSE. The memorandum will show that such a generalization as the one advanced by those who have made the argument I am attempting to rebut is not sound. It will also show the matter of limitation of debate has been one of frequent discussion in the Senate. It has in recent years been successfully defeated so far as changing the existing rule is concerned, by way of the filibuster technique itself. Thus we are confronted with the paradoxical situation that in order to eliminate the filibuster technique from the Senate we first have to defeat a filibuster. I do not know how many times the Senate is going to be willing to surrender in the face of that intimidation. I can merely go on hoping, as I said earlier in my remarks, that the happy day will come and come soon when both the Republican and Democratic parties in the Senate will awaken to the fact—and I believe it to be a fact—that the great majority of the American people want us to end the filibustering technique in the Senate by the adoption of a rule that will successfully banish it from the Senate.

There was another very able speech made during the course of the debate which I want to answer very briefly. I refer to the speech by the distinguished Senator from Mississippi [Mr. STENNIS]. He made his speech on March 1, 1949. The Senator challenged the proponents of the Hayden resolution to show how the American people have ever been harmed by the filibuster. I have already had inserted in the RECORD a list of the filibusters, as set forth in the corrected copy of the Galloway report, and I say one need only read that list and take into account the implications of the legislation filibustered to recognize that the public interest did suffer and has suffered as the result of many filibusters in the Senate. I would answer him further that the public interest has suffered, the rights of millions of fellow Americans have suffered, because the filibuster technique has made it possible to date to prevent the passage of civil-rights legislation, for example.

Of course the Senator from Mississippi does not agree with me on the merits of civil-rights legislation. But the fact that he does not agree with me on civil-rights legislation does not make his argument a sound one when he says, "Wherein has the public interest suffered as a result of the filibuster technique?" It has suffered not only in respect to civil-rights legislation but it has suffered in my judgment because of the many compromises, as I stated earlier in my remarks this afternoon, which frequently have to be made in committee before we can even get legislation to the floor of the Senate, under a threat that if we do not yield to minority demands the bill will be talked to death on the floor of the Senate. That is a terrible cost to have to pay for minority rule in the Senate.

The public interest has suffered also, as is evident from a statement of the legislation involved in bills held up by filibusters, as set forth in the Galloway Report, because of the compromise changes that had to be made before the legislation was subsequently passed. The argument has been made in the course of the debate that eventually the legislation was passed. But the proponents of that argument do not tell us in what form it was finally passed. In many instances it was passed in compromised form, compromises having been forced by the threat of filibuster. That is rule by intimidation, not by majority vote. That is rule by legislative blackmail, not by democratic processes.

Let us not forget that over the years of the history of the filibuster there is a filibuster on bill X or issue X, and a whole series of bills behind it never get to a vote in that session because of the delay caused by the filibuster. That is a tremendous loss to the public. The record will show that in many instances many appropriation bills were lost. Is it any answer when the Senator from Mississippi says, "But eventually the bills were passed, eventually the appropriations were made?" I say that is no answer at all. How much of a loss is it to the people of the United States to have postponed for 1 or 2 or 3 years a very important appropriation for some great public development that ought to have been passed at the very time a filibuster backlogged it and prevented it from getting to the floor of the Senate for passage?

If we want to add up the great cost to the people of the United States caused merely by delay alone to bills which were held up and never got to the floor of the Senate for a vote because another bill was filibustered, the delay cost alone would be a complete answer to the Senator from Mississippi, who says, "In what way has the public interest suffered from filibustering practices in the Senate?" I answer, in a multitude of ways, at terrific cost to the public welfare; and we ought to end it. The more quickly we end it, the better for the people of the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point in my remarks a table entitled "Citations to Later Action on Filibustered Bills."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Citations to later action on filibuster bills

Bills	Year of filibuster	Citations to later acts on same subjects
River and harbor bill.	1901	32 Stat. 331, June 13, 1902.
Do	1903	33 Stat. 1117, Mar. 3, 1903.
Do	1914	38 Stat. 1049, Mar. 4, 1915.
Colombian Treaty	1903	33 Stat. 2234, Feb. 23, 1904.
Canadian reciprocity.	1911	37 Stat. 4, July 26, 1911.
Arizona-New Mexico statehood.	1911	37 Stat. 39, Aug. 21, 1911.
Ship-purchase bill	1915	39 Stat. 728, Sept. 7, 1916.
Mineral lands leasing bill.	1919	41 Stat. 437, Feb. 25, 1920.
Migratory-bird conservation.	1926	45 Stat. 1222, Feb. 18, 1926.
Colorado River bill.	1927	45 Stat. 1011, May 29, 1928.
Do	1928	45 Stat. 1057, Dec. 21, 1928.
Emergency officers' retirement.	1927	45 Stat. 735, May 24, 1928.
Washington public buildings bill.	1927	45 Stat. 51, Jan. 13, 1928.
Oil-industry investigation.	1931	49 Stat. 30, Feb. 22, 1935.
Work relief bill, prevailing wage amendment.	1935	49 Stat. 1609, June 22, 1936.
Flood-control bill	1935	49 Stat. 1570, June 22, 1936.
Coal-conservation bill.	1936	50 Stat. 72, Apr. 26, 1937.

Mr. MORSE. Mr. President, I shall refer again to the argument of my good friend from Mississippi. And let me say that when I use the words "good friend" it is not simply a matter of formality, with me. I mean it when I refer in my speeches to the Members of the oppositions as friends or as able and distinguished Senators from their States. I want to say, and I am only sorry that he is not on the floor at this time, that I not only consider the distinguished Senator from Mississippi [Mr. STENNIS] a good friend, but I consider him one of the finest men, in the dictionary sense of the word "finest," that it has ever been my pleasure to know as intimately as I have come to know the Senator from Mississippi. I think his sitting in the Senate of the United States is a great honor to the State of Mississippi and a great honor to the Senate. But he and

I simply disagree fundamentally on the question of whether the rules of the Senate should be so changed as to prevent the technique of filibuster on the floor of the Senate. I am sorry to be in disagreement with a friend for whom I have such an affectionate regard as I have for the Senator from Mississippi, but I cannot accept the conclusions he has reached in the course of the debate in regard to the effects, which he thinks do not endanger the public welfare, of the filibuster technique in the Senate.

The Senator says:

Whence comes the demand for the alteration of the present rule?

I will tell him whence it comes. It comes from millions of American citizens; it comes from millions of voters who believe that the present cloture rule of the Senate does not permit the transaction of the people's business in accordance with democratic procedures which the people at least thought should prevail in the Senate of the United States. That is where it comes from, Mr. President. It comes from such organizations as the National Committee for Strengthening Congress.

I offer for the RECORD at this point, and ask unanimous consent to have printed in the RECORD, a memorandum which the National Committee for Strengthening Congress published on December 29, 1948.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

National Committee for Strengthening Congress, Inc., Washington, D. C.: Robert Heller, chairman, Robert Heller & Associates, Cleveland; H. Chapman Rose, treasurer and counsel, Jones, Day, Cockley & Reavis, Washington, D. C.; Warren S. Ege, secretary; Winthrop W. Aldrich, chairman of the board, the Chase National Bank of New York; Paul Block, Jr., publisher, the Toledo Blade; Sevellon Brown, publisher, Providence Bulletin and Journal; Louis Brownlow, public administration consultant; Erwin D. Canham, editor, the Christian Science Monitor; James B. Carey, secretary-treasurer, CIO; William L. Chenery, publisher, Collier's; Frederic C. Church, Boit, Dalton & Church, Boston; Carle C. Conway, chairman of the board, Continental Can Co., Inc.; Brooks Emeny, president, Foreign Policy Association; Mark Ethridge, publisher, Louisville Courier-Journal; Edward P. Farley, chairman of the board of directors, American-Hawaiian Steamship Co.; H. W. Fraser, president, Order of Railway Conductors of America; Paul G. Hoffman, president on leave, the Studebaker Corp.; Nathaniel R. Howard, editor, the Cleveland News; Ernest Kanzler, chairman of the board, Universal C. I. T. Credit Corp.; John D. Kerr, president, American Fruit Growers, Inc.; Allan Kline, president, American Farm Bureau Federation; John Shively Knight, editor, Chicago Daily News; Sigurd S. Larmon, president, Young & Rubicam, Inc.; Murray Lincoln, secretary, Ohio Farm Bureau Federation; Henry R. Luce, editor in chief, Time, Inc.; Rabbi Edgar F. Magnin, Los Angeles; Fowler McCormick, chairman of the board, International Harvester Co.; Thomas A. Morgan, chairman of the board, the Sperry Corp.; Bishop G. Bromley Oxnam; Frederick D. Patterson, president, Tuskegee Institute; James G. Patton, president, National Farmers Union; Eugene C. Pulliam, publisher, Indianapolis Star and the News; Quentin Reynolds, general manager, Eastern States Farmers Exchange, Inc.; Raymond Rubicam, Scottsdale, Ariz.; Beardsley Ruml, chairman of the board, R. H. Macy & Co.; David A. Simmons, lawyer, Houston, Tex.; H. Christian Sonne, president, Amsinck, Sonne & Co.; Miss Anna Lord Strauss, president, National League of Women Voters; Charles M. White, president, Republic Steel Corp.; Charles E. Wilson, president, the General Electric Co.

NATIONAL COMMITTEE FOR
STRENGTHENING CONGRESS,
Washington, D. C., December 29, 1948.

The Hon. A. S. MONRONEY,
The House of Representatives,
Washington, D. C.

MY DEAR SIR: With the opening of the Eighty-first Congress we are writing to each Member, as we did on December 30, 1947, again to urge the full enforcement of all the provisions of the Legislative Reorganization Act of 1946 and to go even further with some changes, the need for which has become progressively more apparent during the last year.

There is threatened the abandonment of the legislative budget. Why retreat now from proper legislative control of expenditures? We strongly urge all Members of the Congress to resist the proposed repeal of the legislative budget provision as threatened by the new chairman of the Appropriations Committee. This provision is designed to put into clear focus an over-all fiscal plan of expenditures and income for the year. It can be made to function properly if the leaders of the revenue-raising committees and the appropriations committees diligently seek to make it effective. The failure of the last two sessions to make this fiscal-control feature work is no excuse for abandoning this provision. It merely seeks to require the revenue-raising committees and the revenue-spending committees to get together and fix their over-all fiscal program at the beginning of the session.

In the past, the target for annual income and annual expenditures has been left to piecemeal chance without any effort to coordinate total expenditures with revenue. Congress cannot continue to appropriate money without any relationship or responsibility as to income. By making the legislative budget work as planned, the Congress and the country can have a businesslike approach to governmental fiscal affairs. If the February 15 date is too early for formulating a real legislative budget, then the date could be changed to 30 or 60 days later without difficulty.

At this time when the financial resources of our Nation are being stretched to the widest limits in our history, what is more important than the orderly management of the money affairs of the people? Why not have an informed center of financial responsibility in Congress, resting on the majority party so that the executive and legislative branches can adequately work together as was intended by the Constitution?

The Eighty-first Congress has an unparalleled opportunity to abolish fiscal anarchy in the legislative branch for the following reasons:

1. The standing committees have been reduced to a workable number.

2. One party is in control of the executive and legislative branches of the Government.

3. The reports of the nonpartisan Commission on Organization of the executive branch of the Government will be available early in January.

Beyond the provisions of the act, the performance by Congress of its legislative, supervisory, and representative functions could be improved in many ways. Many Members of Congress believe and have told us that steps should be taken to strengthen party government in, and democratize the procedures of, our national legislature.

We appeal to your sense of practical expediency—to every Member of Congress who wants his and its work done well. How can you possibly accomplish your great tasks without adjusting your machinery promptly?

Four great dangers now confront the efficient functioning of the Eighty-first Congress:

1. Filibusters in the Senate.

2. Blockades in the House Rules Committee.

3. Hostile coalitions on the floor.

4. Converting professional committee staffs into patronage positions.

As to filibusters in the Senate, the existing cloture rule (Senate Rule 22) which requires a two-thirds vote of those present to close debate, has failed to prevent successful filibustering.

What could be more undemocratic than permitting a minority to impose its will on the majority? Can the Senate afford during these critical times to block the road needlessly for much-needed legislation?

The intention of the majority of the Eightieth Congress was so plainly thwarted by filibuster threats of the minority party in its final days that maximum popular attention was called to the majority party's inability to formulate and control its legislative program. Adopted in 1917, this rule has been successfully invoked only 4 out of 19 times, the last time being in 1927. We urge immediate action to eliminate the filibuster in the Senate. We recognize and defend the right to full and adequate debate, but to so abuse this privilege with the filibuster makes the world's greatest deliberative body appear ridiculous to the Nation and the world.

Changes in the Senate rules to insure full debate yet forestall filibuster through applying the cloture rule are vital if the Senate is to continue to function without blockade to orderly legislative processes. We agree with those Senators who want to apply cloture by a majority vote instead of a two-thirds vote to end a filibuster. Such a change must protect the right of any Senator to be heard for adequate discussion or debate on any matters germane to the subject but must provide for ending a filibuster by majority rule. To be effective this must apply to such obstruction whether taken on legislation or at other points in the Senate's procedures to prevent dilatory tactics.

House rules must be changed to eliminate the veto power of the Rules Committee over other standing and coequal committees. In theory the Rules Committee is traffic director on the legislative highway, determining the order of business on the floor of the House. In practice it has become an obstruction to orderly traffic. It frequently usurps the functions of the regular legislative committees of the House by holding hearings on, and reviewing the merits of, bills that have already been carefully studied by the proper legislative committees. The practice of using this veto to force other committees to the will of the Rules Committee effectively thwarts the will of the majority. It has been proven that this cumbersome and abortive method can be effective only in extreme and exceptional instances. After a regular standing committee has conducted hearings often for months on important legislation, the Rules Committee should not have the absolute and unquestioned right to decide in one afternoon that it will not permit the House membership to express themselves on the bill.

1. We suggest that the House rules be changed to require the Rules Committee to report any legislation approved and submitted to them by a standing committee. The Rules Committee would be required to report to the House with the recommendation that the House:

(a) Grant a rule for immediate consideration of the legislation; or

(b) That no rule for consideration be granted.

Thus the Rules Committee could still serve to function as a traffic director of legislation to the floor of the House; but the House membership as a whole could override the Rules Committee by majority vote in case the Members disagreed with the Rules Committee's adverse report.

2. We oppose the granting of closed rules by the Rules Committee since they prevent effective legislative consideration and amendment from the House membership. In such exceptional cases where closed rules might be required we feel that a two-thirds vote should be required to grant a closed rule. The same provision should apply to the waiving of points of order by the Rules Committee since this waiver also suspends the House rules and should require a two-thirds majority. Closed rules effectively suspend the ordinary rules of the House and therefore the two-thirds requirement for suspension of the rules should also apply to the granting of a closed rule.

The danger of hostile coalitions on the floor can be met by strengthening party government in Congress, as follows:

1. The appointment of majority and minority policy committees in the House and Senate, these committees to include the chairmen of all standing committees so that there would be a complete synthesis of each House, and in turn chaired by the party leader in each House. These committees are not to be confused with the present committees in the Senate which are nothing more than steering committees and which do not include the chairmen of all the standing committees. The center of responsibility on both parties should be complete, formalized, and definitized.

2. Give the party leadership responsibility and power to select the chairmen of the standing committees instead of relying upon the seniority system; that is, permitting the committee on committees of the majority party in each Chamber, or the majority floor leaders, to select the committee chairmen.

Only the bonds of tradition and convention prevent the abolishment of the seniority system. Can Congress afford to retain this system when it should have a sensible plan for advancement of able people on the committees? Seniority provides advancement only by retirement, defeat, or death.

The two-party system is the only way for us to run our democracy. It is the motive power which makes the wheels of Congress go round. Party accountability and responsibility should be sharpened and strengthened. A favorable climate for this growth can be achieved by changing the machinery of Congress.

The House should follow the lead of the Senate, whose Committee on Executive Expenditures has studied ways and means of implementing and improving the Legislative Reorganization Act of 1946. We recommend that the Committee on Executive Expenditures of the House appoint a subcommittee for this purpose. We believe it has already been too long delayed.

One of the great achievements of the Legislative Reorganization Act of 1946 was the provision for professional staffing of standing committees on a permanent basis without regard to political affiliations and solely on the basis of fitness to perform the duties of the office. The staff members were to be considered permanent employees of the Congress and should not be dismissed for political reasons.

During the second session of the Eightieth Congress the standing and special committees of the Senate had 120 professional employees, and those in the House had 174. While some appointments may have been strictly political and while some professional staff members may have engaged in work other than committee business, contrary to section 202 (a) of the act, it would, we believe, be a regressive step to convert these staff jobs into patronage plums. We recommend a realistic staffing of committees with capable people from both parties in conformity with our two-party system.

We have a single objective and that is to be of help to you people in Congress. Many of us first became acquainted with Congressional problems of organization and procedure in 1944. We again offer to you our experience for what it may be worth.

Sincerely yours,

ROBERT HELLER,
Chairman.

Mr. MORSE. Mr. President, I call attention to some of the sponsors of this organization, so that the Senator from Mississippi can judge for himself whether they represent responsible, patriotic, Constitution-loving American citizens.

Winthrop W. Aldrich, Paul Block, Jr., Louis Brownlow, Erwin D. Canham, James B. Carey, Edward P. Farley, H. W. Fraser, Paul G. Hoffman, Nathaniel R. Howard, Henry R. Luce, Thomas A. Morgan, James G. Patton, Beardsley Ruml.

I am skipping as I go down the list. They will all show in the RECORD.

Miss Anna Lord Strauss; Charles E. Wilson.

It is such citizens, Mr. President, by the thousands, yes, by the millions, who think that something should be done to change the rules of the Senate so that the technique of the filibuster can be driven once and for all from the floor of the Senate.

That is my answer, on that point, to the Senator from Mississippi.

At another point in his remarks the Senator said:

> The Senate is the last major forum in the world where any group, however small, can seek and secure protection.

Mr. President, can the colored people of the South seek and secure protection in the Senate of the United States with respect to the passage of civil-rights legislation? I do not think so. I do not believe they will get such protection until we shall be able to modify our rules so that the majority-vote principle will prevail, and we can pass legislation free from the blockade of a minority that says, "We will not let you get to a vote."

At another point in the debate a statement was made, I think by my good friend the junior Senator from Georgia [Mr. RUSSELL], to which I desire to refer. I may say in passing that all I have said about the Senator from Mississippi [Mr. STENNIS] with respect to the high regard in which I hold him, I say with equal affection in regard to the junior Senator from Georgia. But here, again, on this point, he and I disagree. At one time in the debate he challenged, as I read the record, the Senator from Illinois [Mr. LUCAS] to name some prominent Democrats who ever favored cloture. There were many Democratic Senators who signed the cloture petition on November 13, 1919, to close debate on the reservations to the Versailles Treaty, among whom were Senators McKellar, Harrison, Hitchcock, Robinson, Sheppard, Swanson, Underwood, Walsh, and others.

I may say further to my good friend from Georgia that if he will go back to March 8, 1917, when cloture was first adopted, he will find all the Southern Democratic Senators who were present on that day voting for it. He will find Senator Vardaman, of Mississippi, saying on that date, as I have previously stated here today, that he favored a majority rule. In effect, he said, "Yes; the filibuster has protected the South," but, nevertheless, he felt that the majority-vote principle ought to be adopted. There were distinguished statesmen from the South in years gone by who favored cloture.

Mr. President, by way of summary I desire to emphasize the points in regard to my own resolution. To me it is a very simple issue: We either favor making it possible to act by a majority in the Senate of the United States, or we favor permitting a minority to block the will of the majority. We either believe the people of the United States want our representative form of government to function on the basis of majority rule, or we believe that the people of the United States favor minority blockage of their will.

I submit that the objective evidence clearly supports the conclusion that the American people want majority rule in the Senate of the United States. I submit, Mr. President, that, taking the country as a whole, when the present President of the United States took the issue to the people in the last campaign, it is a fair conclusion, by and large, that the people supported his position in regard to majority rule.

As I have said heretofore on the floor of the Senate in respect to another issue, I recognize that I cannot in all honesty say that there has been any mandate on this subject to date. We have to judge as we read or take the public pulse what public sentiment is, but I am firmly of the opinion, based upon my observation and from my talks with thousands of them that the American people by and large are sick and tired of the retention of the filibuster technique in the Senate. I am satisfied that the great majority of the American people are applauding Harry Truman today because of his great courage in saying to Congress and to the people of this country, "Yes, I favor majority rule and the majority rule principle in respect to cloture in the Senate."

Mr. President, I close with the same premise with which I started my speech; I am very proud to stand here today helping Harry Truman fight his battle for majority rule in the Senate. I am saddened and deeply regret that I do not have a whole army of Democrats behind me in backing up the President of the United States. I am sorry the majority leader and the democratic whip have left me on this issue. But I think they will come back, perhaps not at this session of Congress, but as the President takes this issue to the people, as I hope he will, and as other men who hold firm convictions about the importance of preserving majority rule if we are to preserve democratic government itself take

their position to the people of this country. The time will come, and I think in the not too distant future, when there will be a sufficient number of men, either those now serving in the Senate who will have changed their thinking on this point, or new men who will be elected by the people who will have the point of view of majority rule, to accomplish what I think we should accomplish now, namely, the adoption of Senate Resolution 12 rather than Senate Resolution 15, the resolution which would give us a cloture rule based upon the majority-vote principle.

THE TAFT-HARTLEY ACT—FULTON LEWIS, JR., POLL

Mr. JENNER. Mr. President, ever since final enactment, in the first session of the Eightieth Congress, of the 1947 Labor-Management Relations Act, commonly known as the Taft-Hartley Act, that law has been the subject of one of the greatest controversies in the labor-management history of our country. It was subjected not only to criticism, but to actual abuse, even before the statute had had opportunity to be tested. Certain labor leaders labeled it "slave labor," "vicious," and "un-American."

Proponents of the act were not as vociferous in their defense of the act as had been its opponents. Apparently they were content to give the act a fair test, and have been content with the results of its operation.

In the 1948 preelection campaign, certain groups sought to make the Taft-Hartley Act a labor issue. Certain labor leaders now call the result of the 1948 Presidential election a mandate to the present administration to repeal the Taft-Hartley Act and reenact the Wagner Act. This the administration now proposes to do, and legislation for that objective is now before the Members of the United States Senate.

That the election results were not considered by a vast segment of the American people as a mandate to repeal the most beneficial legislation ever enacted in behalf of working men and women, and management as well, is indicated by the avalanche of replies to the questionnaire broadcast by Fulton Lewis, Jr., a well-known radio commentator. Mr. Lewis submitted 19 questions over the air in two successive broadcasts. As a result of those broadcasts, the office of practically every Member of Congress has been deluged with replies to the questions, indicating an overwhelming demand that the Taft-Hartley Act be retained.

The replies, according to an analysis I have made of those received by me, represent the thinking of a cross section of the people in my State. They come from members of labor organizations, from businessmen, from housewives, from farmers, from white-collar workers, and professional men and women.

May I presume, Mr. President, briefly on the time of the Senate to read some extracts from letters accompanying the replies. Here is one from a constituent in Indianapolis:

I believe in unions. I am not an employer of labor, but on the other side; but I believe in the welfare of our country.

From another letter:

I strictly favor this law as it gives the employees freedom and privileges heretofore denied them.

From Gary, Ind., well known as a great industrial center, comes this statement:

From what I can see and hear, labor relations are in much better shape now and more stable under Taft-Hartley than they ever were under the Wagner Act. Labor union bosses are hell bent to get their old czaristic powers back but the laborer, the man who is "just a member of the labor union" seems to be relieved to get out from under the tyranny of his bosses.

From Indianapolis—from a white collar worker:

I am not one of Mr. Jacobs' illiterates, but a white collar worker.

From another letter I read this:

From August 1913 until Nov. 1, 1920, I was a member of the A. F. of L., belonging to the stenographer and bookkeepers union, and was employed by the president of the International Typographical Union. During that time I learned much in regard to the methods used by officials of local unions, which were in their infancy then compared to the methods used today, and I am confident that a labor law containing the principles brought forth in the questionnaire and answered as follows will be free of any hardships or injustices to the membership of any union organization, and will be a boon to the entire public.

In the replies, many of the correspondents pointed out particularly that they were members of CIO or A. F. of L. labor organizations.

I have refrained from using the names of these correspondents because, I do not want reprisals against these good union men and women.

Mr. President, I submit herewith an analysis of the first 750 replies I have received from Mr. Lewis' questionnaire and ask consent to have it inserted in the RECORD as part of my remarks.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

FULTON LEWIS, JR., QUESTIONNAIRE

(Percentages are those of the first replies received; figures in parentheses are the actual replies received)

1. Do you believe that the law should preserve the worker's right to strike? Yes, 80.8 percent (660); no, 19.2 percent (90).

2. In the case of a strike that would cause a national emergency, endangering the health and safety of the Nation—should the President be empowered to get a court injunction to delay such a strike? Yes, 95 percent (713); no, 5 percent (37).

3. When two or more unions are fighting each other, over who is to do a job or who is to represent the workers, and a strike is called to get for one union the work or the recognition—that is a jurisdictional strike. Should the law prohibit strikes of that kind? Yes, 94 percent (705); no, 6 percent (45).

4. When a union is engaged in a labor dispute with an employer, and seeks to coerce that employer, indirectly, or by interfering with the business of other companies where there is no dispute between the management and the workers, but which merely do business with the employer who is being struck—that is a secondary boycott. Do you believe the law should prohibit such boycotts? Yes, 93 percent (735); no, 2 percent (15).

5. Should the law forbid management to deduct union dues and assessments from the worker's pay envelope, except when the worker gives his personal O. K.? Yes, 77 percent (577); no, 23 percent (173).

6. Do you believe the law should require both unions and management to bargain in good faith? Yes, 99 percent (742); no, 1 percent (8).

7. Should the law guarantee to management and workers alike, the freedom to express their respective points of view on labor-management problems, provided there are no promises of bribes, or threats or reprisals—direct or implied? Yes, 99 percent (742); No, 1 percent (8).

8. Should the law protect the worker against unfair practices by unions or by management? Yes, 99 percent (742); No, 1 percent (8).

9. Do you believe the law should require union officials and company officials alike, to swear that they are not Communists, or Fascists, or members of any group which advocates the overthrow of the United States Government by force and violence? Yes, 99 percent (742); No, 7 percent (8).

10. Should the law require unions to make financial reports to members and to Government, just as companies are required to make the same reports to stockholders and the Government? Yes, 100 percent (748).

11. Should the law require that a collective-bargaining contract must be honored by both parties? And that each party has an equal right to sue the other party, for breaking the contract? Yes, 100 percent (749).

12. When a union requires an employer to pay money for work that has not been done, and will not be done, that is called "featherbedding." Do you believe the law should forbid "featherbedding?" Yes, 98.4 percent (738); No, 1.6 percent (12).

13. When a union, by contract or otherwise, requires an employer to hire only members of that Union—that is a closed shop. Do you believe the law should permit such a closed shop? Yes, 56.7 percent (425); No, 43.3 percent (325).

14. Do you believe it should be unlawful for a worker to be prevented from performing his job, by the use of violence, force, or intimidation? Yes, 74.3 percent (557); no, 25.7 percent (193).

15. Do you believe that foremen and supervisors, who have a divided responsibility to management which hires them and to the workers under them should be permitted to have unions of their own? Yes, 38.8 percent (291); no, 61.2 percent (459).

16. Do you believe the law should guarantee to every worker the right to join or not to join a union—to remain or not to remain a member—just as the individual worker wishes? Yes, 97 percent (727); no, 3 percent (23).

17. Do you believe that unions and employers alike, can now so affect the public interest for good or ill, that the law should state, as a matter of national policy, that the relationships of each with the other shall be regulated equally by law? Yes, 89 percent (667); no, 11 percent (83).

18. Suppose that an economic strike—one that does not involve any unfair labor practices—is under way, and a given striker has been replaced by a new worker, in his job. An election is held to decide what union, if any, is to present the workers if and when the strike has finally been settled. Should the law permit this worker, who is out on strike, to vote in that election? Yes, 24 percent (180); no, 76 percent (570).

19. Should the law place unions under the same prohibition against political activity or making political contributions in election campaigns, that applies to corporations? Yes, 94 percent, (705); no, 6 percent (45).

MILITARY TRIALS—PETITION FOR WRIT OF HABEAS CORPUS

Mr. LANGER. Mr. President, I ask unanimous consent to have printed in the body of the RECORD a petition for writ of habeas corpus filed in the Supreme Court of the United States in the case of Willis M. Everett, Jr., on behalf of Valentin Bersin et al., before the Supreme Court.

There being no objection, the petition was ordered to be printed in the RECORD, as follows:

PETITION FOR WRIT OF HABEAS CORPUS IN THE SUPREME COURT OF THE UNITED STATES

(Willis M. Everett, Jr., on behalf of Valentin Bersin et al., petitioner, versus Harry S. Truman, Commander in Chief of the Armed Forces of the United States, and James V. Forrestal, Secretary of Defense of the United States, and Kenneth C. Royall, Secretary of the Army of the United States, and General Omar N. Bradley, Chief of Staff of the Army of the United States, and Thomas C. Clark, Attorney General of the United States, respondents.)

To the Honorable Fred M. Vinson, Chief Justice of said Court and the Honorable Associate Justices thereof:

This petition of Willis M. Everett, Jr., on behalf of Valentin Bersin, Friedel Bode, Willi Braun, Kurt Briesemeister, Willi Von Chamier, Friedrich Christ, Roman Ciotten, Manfred Coblenz, Josef Diefenthal, Josef (Sepp) Dietrich, Fritz Eckmann, Arndt Fischer, Georg Fleps, Heinz Friedrichs, Fritz Gebauer, Heinz Gerhard Godicke, Ernst Goldschmidt, Hans Gruhle, Max Hammerer, Armin Hecht, Willi Heinz Hendel, Hans Hennecke, Hans Hillig, Heinz Hofmann, Joachim Hofman, Hubert Huber, Siegfried Jakel, Bsnom Junker, Friedel Kies, Gustav Knittel, Georg Kotzur, Fritz Kraemer, Werner Kuhn, Oskar Klingelhoefer, Erich Maute, Arnold Mikolaschek, Anton Motzheim, Erich Munkemer, Gustav Neve, Paul Hermann Ochmann, Joachim Peiper, Hans Pletz, Georg Preuss, Hermann Priess, Fritz Rau, Theo Rauh, Heinz Rehagel, Rolf Roland Reiser, Wolfgang Richter, Max Rieder, Rolf Ritzer, Axel Rodenburg, Erich Rumpf, Willi Schaefer, Rudolf Schwambach, Kurt Sickel, Oswald Siegmund, Franz Sievers, Hans Siptrett, Gustav Adolph Sprenger, Werner Sternebeck, Heinz Stickel, Herbert Stock, Erwin Szyperski, Edmund Tomczak, Heinz Tomhardt, August Tonk, Hans Trettin, Johann Wasenberger, Gunther Weiss, Erich Werner, Otto Wichmann, and Paul Zwigart, most respectfully shows unto this honorable Court as follows:

1

That petitioner, Willis M. Everett, Jr., is an attorney and counsellor at law of Atlanta, Ga., but from September 1, 1940, to June 15, 1947, was an officer in the United States Army. In May 1946 while serving under the commanding general, United States Forces, European theater, your petitioner was directed by him to serve as chief defense counsel for each of the above-named parties who will hereinafter be referred to as parties plaintiff or accused. Petitioner is unable to secure the verification by individuals named as plaintiffs due to the lack of time and the facts hereinafter set forth. Petitioner has continued to act as chief defense counsel for plaintiffs herein and they have full knowledge, coupled with a request, that this petition is being brought by petitioner on their behalf to this honorable Court.

2

That each plaintiff named herein was an enemy soldier who unconditionally surrendered to the Army of the United States of America. Further, each plaintiff is a citizen and national of Germany. Each plaintiff is presently unjustly and unlawfully detained and imprisoned at a United States Army penitentiary, at Landsberg, Germany, or a penitentiary operated under the commanding general, European command, at Landsberg, Germany. Each plaintiff is being illegally restrained thereat as a result of the verdict and sentences of a certain general military government court at Dachau, Germany, on July 16, 1946.

3

The respondent, Harry S. Truman, is Commander in Chief of the Armed Forces of the United States of America. In his capacity as Commander in Chief he has custody and control of each plaintiff herein.

4

The respondent, James V. Forrestal, is the Secretary to the President of the United States of America in charge of all defense, including the Department of the Army, who also has custody and control of each plaintiff herein.

5

The respondent, Kenneth C. Royall, is the Secretary of the Army under the Secretary of Defense and is directly responsible for the Department of the Army. In his capacity he has custody and control of each plaintiff herein.

6

The respondent, Gen. Omar N. Bradley, is the Chief of Staff of the Army, Department of the Army, who was selected by the President of the United States, and has supervision of all troops of the line and in this capacity has custody and control of each plaintiff herein.

7

The respondent, Thomas C. Clark, is the Attorney General of the United States of America and in his capacity as Attorney General is the chief prosecutor for the United States of America and the proper person upon whom service shall be perfected under existing laws.

8

Petitioner alleges with certainty that the trial before the General Military Government Court at Dachau, Germany, hereinafter referred to as the war crimes trial or Malmedy trial, was utterly void because of the facts hereinafter set out and especially for the reasons that:

(a) No defense was possible due to the short period of time, less than 2 weeks, to prepare the defense for the 74 accused, and

(b) The unfamiliar and arduous task of communicating through inexperienced interpreters as well as a lack of assigned stenographers and interpreters so hampered the defense staff that it was not even physically possible to interrogate all of the accused, much less plan a defense, prior to the forced commencement of the trial, and

(c) The entire plan of this forced trial was calculated to make the whole defense impossible by not allowing time to procure and interview witnesses.

Upon assignment as chief defense counsel petitioner was assured by various responsible officers of the United States Army that these 74 accused would be given a fair trial, but the entire trial was totally lacking in due process as known in the courts of the United States of America, Great Britain, France, Italy, Belgium, Netherlands, and other nations.

9

Plaintiffs were of varying ranks from generaloborst (general) to sturmann (private) with varying length of service in the German Army but each plaintiff was in the German Army until the Commanding General, United States Forces, European Theater did, on or about May 9, 1946, purportedly discharge all of plaintiffs from the German Army, thus attempting to end their prisoner of war status. Copy of said original carrier note requesting and confirming such discharge is hereto attached, marked "Exhibit A" and made a part of this petition.

10

Plaintiffs were, under the Geneva Convention, prisoners of war after surrender and apprehension by the United States Army until they were discharged as aforesaid. However, their status probably changed to that of an accused war criminal on April 11, 1946, when they were first served with notice that they were being charged with war crimes. Copy of said charge sheet, less the German translation, is hereto attached, marked "Exhibit B," and made a part of this petition.

11

Plaintiffs had been illegally and forcefully incarcerated in Schwabisch Hall, Germany, a German penitentiary the equivalent of one of our United States Federal penitentiaries and used by the United States Army as an interrogation prison for varying lengths of time but generally in excess of 10 months prior to being served with charges of war crimes as set forth in paragraph 10 above. There were approximately 500 other German soldiers, suspected war criminals, also confined thereat. With few exceptions, each was placed in solitary confinement throughout this period. That the said Schwabisch Hall was exclusively under the control of and used by the United States Army for all suspects in the Malmedy case. One Lt. Col. Burton F. Ellis, JAGD, United States Army, was the senior officer thereat and responsible for the abuse and mistreatment of plaintiffs herein at said penitentiary.

12

The forced and illegal detention of plaintiffs as aforesaid was in violation of the Geneva Convention which provides that prisoners of war must be humanely treated and protected, particularly against acts of violence and insults. They should be equally treated. No coercion may be used on them to secure information, and under no circumstances will they be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind whatever. They are entitled to have their honor and person respected. They must have sanitation, open air, and exercise. Under all circumstances, prisoners of war are subject to the laws in force of the detaining power. Attention is invited to exhibit C.

13

As illustrative of these violations of international agreements, the American prosecution team in Schwabisch Hall, Germany, would place a helmet hood completely over the head of individual plaintiffs herein, then usually a beating would be administered, after which they would be forced into a completely dark cell which was their trial room. The hood was removed and each plaintiff would see before him a long table, draped with black cloth touching the floor, with candles burning at both ends of the table and a crucifix in the center. Sitting behind this table were varying numbers of American civilians, members of the prosecution team, who were wearing illegally the uniform and rank of United States Army officers. A mock defense counsel, usually an officer of the United States Army on the prosecution team, was furnished these youthful German soldiers, who, although he was not an attorney, held himself out to the plaintiffs herein as their defense counsel. They were informed or led to believe that they were being tried by the Americans for violations of international law. At the other end of the table would be the prosecutor, who would read the charges, yell, and scream at these 18- and 20-year-old plaintiffs and attempt to force confessions from them. If this method of threats failed to force desired false confessions from these plaintiffs, the mock trials would proceed by bringing in

one false witness after another against them, "proving" beyond a doubt by falsehoods that these plaintiffs were guilty of many war crimes. During the entire mock trials these purported defense counsels were making a sham and pretext of defending them. At the end of these illegal trials conducted in the name of the United States of America, these guileful defense attorneys would pretend to make a plea to this purported Army court for mercy. Upon conclusion, these sham courts would render death penalties within 24 to 48 hours by hanging. Thereupon said false defense attorney would express his sympathy, stating that he had done the best he could for these various plaintiffs. After these mock trials, the pretended defense attorney would attempt to, and was in a majority of instances successful in coercing these plaintiffs to sign false and void confessions, admitting any and all charges brought against them, because, as this false defense counsel would in effect say, "You will be hanged in 24 hours, anyway, so why not absolve someone else by taking the blame and writing out this confession I will dictate to you?" Many variations and modifications were made in the conducting of these mock trials which appeared entirely regular to these plaintiffs, as they were devoid of any knowledge of the American Army courts-martial system or war-crimes trials. There were 74 defendants, and there were 74 prosecution-dictated statements. All of the above described acts, deceits, and chicanery of American justice were performed by United States civilians, under Army jurisdiction, and by officers of the United States Army or executed under their immediate supervision and control.

14

As further illustrative of the violations of said international agreements and treaties, many plaintiffs herein at various times were deprived of food for days, all blankets were withdrawn in the middle of winter, many were given severe and frequent beatings and other corporal punishment, many were forced into what was called the death cell for days and weeks, others were given promises of immunity or light sentences if they would sign confessions implicating others, and endless tricks, ruses and so-called stratagem, all performed by these United States civilian employees of the Army or officers or enlisted men in the United States Army, or under their direct supervision, instruction, or acquiescence. Said group of American investigators or a majority of them subsequently became the prosecution team in said Malmedy trial.

15

As illustrative of promises of immunity or hope of reward, various behooded plaintiffs herein would be conducted to a room, then allowed to look out of a window where unknown persons were playing volley ball and similar games, at which time some American member of the prosecution team would urge plaintiffs to sign a confession, stating that they were not interested in punishing them, but were trying to convict their high-ranking officers, and if they would sign these dictated confessions implicating their officers they would be released within a few months and be out playing games with those other boys. Various plaintiffs herein would be assured and promised by the Americans that if they assumed full and complete responsibility for all the acts or alleged crimes committed by the soldiers under them and signed these prosecution-dictated statements or confessions, then the prosecution would not prefer any charges against members of their command.

16

As illustrative of the cruel torture and inhumane treatment of these plaintiffs as well as others in Schwabisch Hall, Germany, while prisoners of war, reference is made to the introduction into evidence of an unsigned statement by Arvid Freimuth, a young German soldier who had been through the various tricks, ruses and stratagem administered by the American prosecution which ended in one of those fateful mock trials. Lt. William R. Perl, an officer of the United States Army, had purportedly defended this youth. He was dictating to Freimuth one of those forced confessions in March 1946. Only 16 pages had been written by this boy and due to the lateness of the hour the completion was delayed until the next day. His death would not occur until then, according to the fake verdict of this false American military court. He was forced to write lies about his comrades in arms pointing to their guilt in crimes never committed. About 2 o'clock in the morning other prisoners heard him crying out in his cell, "I cannot utter another lie," or words to that effect. The body of that 20-year-old German youth was found dead hanging from his prison cell in Schwabisch Hall, Germany, when the guard opened the door a few hours later. The American prosecution was not satisfied with having the blood of this youth on their hands. During the real Malmedy trial the prosecution, over the objection of the defense staff, introduced this unsigned and unfinished statement in evidence against other plaintiffs herein, all with the approval and favorable ruling of the law member of the court. It was then that the American prosecution commenced asking this Lieutenant Perl, under oath, what this dead German youth would have said in his statement if he had lived. This incident is illustrative of the total lack of justice both pretrial and during trial.

17

In furtherance of illustrations wherein violations of international law were carried out by the United States Army investigation team or prosecution, while holding plaintiffs in solitary confinement in Schwabisch Hall, Germany, the investigators would forge the names of certain of plaintiffs' superior officers to confessions or statements, which would completely detail and point out the purported guilt of another accused. Then they would confront these young German soldiers with one or more of these forged statements and induce them to sign confessions to acts never committed by them. Many of plaintiffs herein while in Schwabisch Hall, Germany, would be hooded and taken to the death chamber and there unhooded and shown bullet holes in the wall where gruesome human flesh and hair would be imbedded from one of their "latest executions." By this method the American prosecution would force confessions of crimes never committed. On other occasions various hooded plaintiffs herein would be taken to the hangman's room and there unhooded, placed on a high stool and a hangman's rope placed around their necks. It was then that various plaintiffs herein would, upon belief that they would be hanged forthwith, sign directed statements not only admitting their own guilt of crimes never committed, but implicating other plaintiffs herein of crimes they had committed, which in truth had never been committed.

At the conclusion of many of these mock trials where other ruses had failed, the United States prosecution team would suggest and allow these youthful plaintiffs to write farewell letters to their parents before they would be hanged, which was in furtherance of the duress, scheming, and conniving of the Americans. Also the American prosecution would offer the privilege of seeing a priest in order to secure the "ministration of a Catholic priest before death." The American prosecutors would make many threats of violence and torture directed toward the mothers, fathers, sisters, wives, and children of various accused unless they signed complete confessions of acts and deeds never committed by them, and acts and deeds of other accused never witnessed by them.

18

One favorite ruse of the United States prosecution team in Schwabisch Hall, Germany, was to place plaintiffs in solitary confinement upon first being captured. Those German youths had no knowledge of why they were placed in this penitentiary. For weeks and months they would stay in the same cell without seeing a single person, not allowed to receive or write even a letter to their parents or wives, and not allowed to read anything. Then a stool pigeon would be placed in the same cell who was another German soldier. This youthful plaintiff was anxious to know what it was all about. This prosecution stool pigeon would relate an imaginary story of how he had just been tried by the American Army for shooting many Belgian civilians and maybe a few American soldiers. The stool pigeon would go into much detail about his own trial and then conclude with how light the verdict had been because he had cooperated, admitted everything whether true or not, and had written exactly what the American had dictated. Although he, the stool pigeon, had admitted many murders he had received only 1, 2, or 3 years' confinement for all that he had done. It was only a few days thereafter until that German lad would be hooded and brought before one of these mock trials with the hope and expectation of a light sentence such as the stool pigeon had described if he would sign an American prosecution-dictated statement.

19

All of the foregoing illustrations of violations of international laws, or practically all, were laughingly or jokingly admitted by the American prosecution team during their presentation of their case in the Malmedy trial or on direct examination of the witnesses. At this point these questions strongly suggest themselves: What did the American defense do about these forced confessions at the real Malmedy trial? Why were these confessions admitted as evidence and in many cases constituted the sole and only evidence against certain of these plaintiffs? Attached here, marked "Exhibit C," and made a part of this petition, is a copy of motion to withdraw confessions or statements of accused, which was properly presented and pleaded at the Malmedy trial, but this motion was promptly denied by the ruling of the law member of the court.

20

The question of jurisdiction of the General Military Government Court of the United States of America at Camp Dachau, Germany, is specifically raised because all of the crimes alleged to have been committed occurred within the sovereign state of Belgium and the situs of the crimes lay entirely outside the American occupation zone of Germany. The claim as to jurisdiction by the United States Army was by virtue of the physical custody of plaintiffs herein. Generally speaking, international law has repeatedly ruled that a person must be tried before the forum where the crime was committed. These principles were recognized in the Moscow declaration, the Potsdam declaration, and the London Conference. Reference is made to the Moscow declaration of October 30, 1943, which was entered into by Great Britain, the United States, and the Soviet Republic. The pertinent portion of said agreement touching on the subject presented to this honorable court is herewith quoted:

"German war criminals whose deeds can be localized will be sent back to those countries in which their abominable deeds were done in order that they may be punished

according to the laws of those liberated countries."

Again in the Potsdam declaration of August 2, 1944, entered into at Cecilienhof, near Potsdam, by the United States, Great Britain, and the Soviet Republic, the following is provided under article VII, which reads:

"The three Governments have taken note of the discussions which have been proceeding in recent weeks in London between the British, United States, Soviet, and French representatives, with a view to reaching an agreement on methods of trial of those major war criminals whose crimes under the Moscow declaration of October 1943 have no particular geographical allocalization. The three Governments affirm their intention to bring those criminals to swift and sure justice. They hope that the negotiations in London will result in a speedy agreement being reached for this purpose and they regard it as a matter of great importance that the trial of those major war criminals should begin at the earliest possible date. The first list of defendants will be published before September 1."

This London agreement entered into by the United States, Great Britain, the Soviet Republic, and the provisional government of the French Republic on August 8, 1945, provided as follows:

"Whereas the United States have from time to time made declarations of their intention that war criminals shall be brought to justice and whereas the Moscow declaration of October 30, 1943, on German atrocities in occupied Europe stated that those German officers and men and members of the Nazi Party who have been responsible for or who have taken a consenting part in the atrocities and crimes, will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished by the laws of those liberated countries and the free government that will be created therein, and whereas this declaration was stated to be without prejudice to the case of major criminals whose offenses have no particular geographical location and who will be punished by the joint decision of the governments of the Allies."

This London agreement went on to establish the International Military Tribunal to be held at Nuremberg, Germany, for the trial of war criminals whose offenses have no particular location. Article IV of this London agreement further provides:

"Nothing in this agreement shall prejudice the provisions established by the Moscow declaration concerning the return of war criminals to the countries where they committed their crimes."

A Central Control Council was instituted for the establishment of a military government in Germany by the four powers (United States, Great Britain, Soviet Republic, and the Provisional French Republic) and to each was allocated a zone of occupation, wherein each power was to establish its own military government. In the United States zone of occupation the military governor was and is the commanding general of the United States forces, European theater. Gneral McNarney, the then commanding general aforesaid, did on January 12, 1946, issue a directive as an amendment to the previous directive dated July 7, 1945, subject "Administration of Military Government in United States Zone in Germany," which embodied Control Council Law No. 10 and reads as follows:

"Article I, Control Council Law No. 10, provides: 'The Moscow declaration of October 30, 1943, concerning responsibility of Hitlerites for committed atrocities and the London agreement of October 8, 1945, concerning prosecution and punishment of major war criminals of the European Axis are made integral parts of the law'."

The military governor was without authority to alter or change the Moscow Declaration, the Potsdam Declaration, or the London agreement. His own orders authorizing the court and requiring officers under his command to act as judges of plaintiffs herein and to direct the prosecutor to draw charges and prepare for their trial was in violation of and inconsistent with his own directive.

21

Petitioner shows that the detention, confinement and restraint of liberty of plaintiffs herein is unlawful and without authority in law in that:

(a) The general military court which tried plaintiffs herein was unlawfully constituted and the individual members or a majority of them were not lawfully appointed to such purported general military court, and said war crimes trial and the proceedings thereof were void ab initio.

(b) On May 10, 1946, the commanding general, Third United States Army, did attempt to appoint to such court eight officers by Special Orders No. 117, and that six of such officers at the time of such purported appointment were not attached to, or under the command of the appointing authority, and that said appointing authority had no command over or authority to control or right to appoint these six officers to said purported general military court.

(c) Further that said six officers, Colonels Berry, Watkins, Raymond, Steward, Conder, and Rosenfeld, were not even subsequently transferred or assigned to said Third United States Army, thereby placing them under the control and authority of said commanding general.

Petitioner thus charges that by virtue of the above orders all members of the purported court with the exception of Brig. Gen. Josiah T. Dalbey and Col. Paul H. Weiland were not subject to the command of the appointing authority, had never been assigned or transferred to the command of the appointing authority, and the appointing authority had no authority in law to appoint said officers with the exception of General Dalbey and Colonel Weiland to the purported court, and therefore the court had no jurisdiction whatsoever over any of the 73 plaintiffs herein or the subject matter thereof, and that the proceedings, trial, and subsequent verdict were void ab initio. Attached hereto and marked exhibit "D" is copy of the Third United States Army order which is made part of this petition.

22

Petitioner shows that only six counsel were assigned him immediately prior to the commencement of this Malmedy trial and several of said attorneys were not adept, experienced, or skilled in defending criminal cases. Petitioner shows that less than 2 weeks' time was allowed by the United States Army to prepare the defense for 74 defendants in the case. At first the chief prosecutor, Lieutenant Colonel Ellis, even refused to turn over these forced confessions to the defense for inspection. Petitioner shows that three meetings of all the plaintiffs herein on different days were required, with their own officers exhorting them to confide in this petitioner and his staff, before it was possible to break down the barrier of mistrust between attorney and client created by the misdeeds of the American prosecution. Each of plaintiffs herein thought this was merely another mock trial. Not even all of the plaintiffs herein could be interviewed prior to the commencement of the Malmedy trial due to lack of interpreters and stenographic help which the United States Army failed to furnish upon repeated requests. Irrespective of many demands of petitioner, as chief defense counsel, insufficient time was given to make any investigation whatsoever prior to the beginning of the trial. Vigorous protests were made to the proper officers of the Third Army and the united forces, European theater, over the lack of time to prepare the defense, the lack of assistants required to make an investigation, and the questionable actions of the chief prosecutor and his staff.

23

As illustrative of the inadequacy of time to properly prepare a defense for the 74 defendants in the Malmedy case and the falsity of the confessions forced from the plaintiffs herein, reference is made to two atrocities alleged to have been committed by certain ones of the plaintiffs. When the prosecution rested its case, a few days were allowed the defense staff to interview witnesses and plan the defense for their 74 defendants. An officer was sent to Belgium and he investigated an incident in Wanne, Belgium, where it was alleged that one of plaintiffs herein had entered the house of a Belgian civilian and without provocation murdered a woman while she was sitting in her chair. This plaintiff in a forced false confession fully admitted the commission of this war crime and four or five of his codefendants swore to the same facts in their forced false confessions and related every detail exactly the same. This defense officer brought back an affidavit by the husband of the purportedly murdered woman to the effect that his wife had been killed during enemy action, but that his wife was standing in the street in front of his home when an American artillery shell exploded and killed her. This statement was properly sworn to before his priest.

The second illustration of the falsity of these forced false confessions relating to alleged atrocities concerned certain incidents within the churchyard at La Gleize, Belgium. Certain ones of plaintiffs herein admitted, in their forced false confessions, placing two or three groups of surrendered American soldiers, numbering 20 to 30, against the inside wall of this churchyard and shooting them down in cold blood with machine guns. The defense investigation developed the fact that there was no inside wall of the churchyard, but merely an outside retaining wall. The priest furnished this defense officer with a sworn affidavit that he was present in the church the entire time of the battle and alleged crimes, that he had examined the outside walls of the churchyard and no sign of any bullet marks were visible, that no such atrocities had ever been committed in the vicinity of his church, and that the only dead Americans he had seen in the town was the body of one in an American tank which was burned beyond recognition, and finally that on the afternoon the crimes were purportedly occurring he had walked along the outside wall and no dead Americans were there. Many more of the plaintiffs herein had corroborated these same detailed purported crimes under oath, but in forced false confessions. No additional time was given the defense staff to investigate each and every charge, although repeated requests were made.

24

On several occasions when witnesses were requested for various plaintiffs herein the members of the American prosecution staff would call them into their office before they could even be interviewed by the defense staff and would threaten them with being made defendants in the Malmedy case if they testified as to any knowledge of certain incidents and thereupon took sworn statements under duress from these witnesses to the effect that they knew nothing. Tampering with witnesses in the Malmedy trial was not an uncommon occurrence on the part of the United States Army prosecution staff.

25

Many witnesses for the prosecution were interviewed by the defense staff after they had testified on the witness stand and several were returned to the stand by the defense who thereby adopted them as their

witnesses. In each case they positively denied any truth in their original testimony and freely admitted perjury, giving as their reason therefor that they had been the victims of force, duress, beatings, and other forms of torture. However, when details of the beatings, etc., were requested, the prosecution would object and the law member of the court would always sustain the objection and prevent the evil and ruthless tactics of the prosecution from being further exposed in open court.

26

As illustrative of violations of the laws of all civilized nations the following is given. The relation of attorney and client is one of universal application. During the presentation of the defense of these plaintiffs, petitioner was in court with all his assistant counsel and all of the defendants, when petitioner noticed Lieutenant Perl slip into the bunker or long cell block where defendants slept. Shortly thereafter he was observed slipping out with an armful of papers. No American was allowed in this building as directed by competent American military authority. Lieutenant Perl then reported to the chief prosecutor, Lieutenant Colonel Ellis, and after a short conference went out of the court room. Within a few minutes petitioner secured the assistance of the officer of the guard who then surprised Lieutenant Perl in the chief prosecutor's office, and he admitted taking the private notes and papers written by the accused to their defense counsel and was translating them in accordance to instruction of Lieutenant Colonel Ellis.

During the course of the said Malmedy trial one or more of the prosecution staff would approach the wives of plaintiffs herein who were attending said trial and falsely represent themselves to be members of the defense staff. While posing as their husband's defense attorney they would attempt to gain further information about any and all privileged communications between husband and wife.

27

In addition to the absolute grounds of total lack of jurisdiction by this alleged court, petitioner has dealt briefly with many details which are recognized as not pertaining exclusively to the subject matter of jurisdiction, but in consideration of the broadened view of recent cases in the United States Supreme Court and Federal courts, it now appears a well-established rule that other matters such as due process may be inquired into by this honorable Court.

28

Petitioner charges that the misconduct of the chief prosecutor in the sanctioning of said acts and many of his staff in the execution of said acts was of such a grave character, both before and during the trial, that it rendered the entire proceedings void. In addition to illustrations hereinabove enumerated, the abusive manner of members of the prosecution staff in the questioning of plaintiffs herein as well as witnesses for the defense in open court was so offensive that it became necessary for the petitioner to call two recesses during the trial and advise all the plaintiffs herein not to take the stand in their own behalf. Finally, early in July 1946, petitioner, as chief defense counsel, announced in open court that he was taking the full responsibility in preventing the remaining defendants from taking the stand in their own behalf and further testifying as to the force, duress, and so-called tricks of the prosecution because the fear of those prosecutors lingers on.

29

Petitioner requested from the United States Army copies of the record of the Malmedy trial held during May, June, and July 1946, but the same was refused. For that reason petitioner is unable to give with certainty exact names, dates, quotations, facts, and places that involve the mass trial of 74 defendants and which covered a period in excess of 2 months. Furthermore, this trial was concluded almost 2 years ago.

30

Petitioner shows that from the best information available, three reviews of said case were made by the Deputy Judge Advocate for War Crimes and one review by the Judge Advocate, European Command, but petitioner has not received any of said reviews. Further, that on or about March 20, 1947, Gen. Lucius D. Clay, Commanding General, European Command, pronounced final judgment on plaintiffs herein. That execution of the death penalties will be carried out on Valentin Bersin, Friedel Bode, Kurt Briesemeister, Friedrich Christ, Josef Diefenthal, Ernst Goldschmidt, Hubert Huber, Paul Herman Ochmann, Joachim Peiper, Georg Preuss, Erich Rumpf, and Paul Zwigart on or about the 20th day of May 1948.

31

Petitioner further shows that much time and effort has been spent following the final verdict in said Malmedy trial pointing out many defects, deficiencies, and incorrect rulings during the course of said trial by preparing a brief based on the record and filing the same with the original record. Copy of said brief is hereto attached and marked "Exhibit E" and made a part of this petition. Due and impartial consideration was not and could not be given to said brief because the appointing authority was directed by the reviewing authority to try these plaintiffs and no latitude or freedom of judicial action could be accorded under such circumstances.

32

Petitioner has just received a petition addressed to this honorable court from Dr. jur, Eugen Leer, a Germany attorney who was an assistant to petitioner during said Malmedy trial. Said petition, it is believed, points out additional facts of other force, duress, cruel and inhuman treatment against certain plaintiffs herein by the American prosecution which was unknown at the time of said trial. Said petition is substantiated by various sworn statements of witnesses as well as medical examiners. Said petition is in German, and your petitioner has no English translation thereof and is unable to present the same either separately or in conjunction with this petition. After translation, permission is requested to amend this petition by adding the same hereto if its contents speak to the issues herein. Said petition is addressed as follows: To: Supreme Court, via chief defense counsel, Col. Willis M. Everett, Connally Building, Atlanta, Ga.

33

That such imprisonment and restraint of plaintiffs is not by virtue of any process issued by a court of the United States, or by a judge or commissioner or other officer thereof in a case where such court, judge, commissioner or officer thereof had, or has acquired, exclusive jurisdiction under the laws of the United States, and

That such imprisonment and restraint is not by virtue of any judgment or decree of a competent tribunal of criminal jurisdiction, nor by virtue of an execution issued upon such judgment or decree, and

That the cause or pretense of such imprisonment and restraint is by virtue of the verdict and sentences of the illegally appointed general military court at Dachau, Germany, on July 16, 1946, and

That there is no judge or officer in Germany or Europe competent to issue or grant a writ of habeas corpus or other legal remedies, and

That none of plaintiffs herein has any funds to defray the expenses in connection with the bringing a writ of habeas corpus in any other court, thereafter perfecting an appeal to this honorable Court, and under existing statutes and the decisions of the Federal courts no alien is permitted to proceed in forma pauperis, and

That the commandant of the Landsberg prison is an officer of the United States Army but is not made a respondent herein because he is not situated within the jurisdiction of this honorable Court and cannot be served with any process of this honorable Court. However, said commandant derives his power from and is subject to the direction and commands of the respondents Harry S. Truman, James V. Forrestal, Kenneth C. Royall, and Gen. Omar N. Bradley, all of whom are located within the jurisdiction of this honorable Court, and

That the facts hereinabove stated are questions of great moment and many difficulties are involved, to such an extent that both the principles of law and facts clearly classify this petition for a writ of habeas corpus as an exceptional matter. The case is therefore one within the jurisdiction of the Supreme Court of the United States.

Wherefore petitioner on behalf of plaintiffs named in the opening paragraph of this petition respectfully prays:

1. That a writ of habeas corpus issue directed to Harry S. Truman as Commander in Chief of the armed forces of the United States of America, Washington, D. C.

2. That a writ of habeas corpus issue directed to James V. Forrestal, Secretary of Defense of the United States, Washington, D. C.

3. That a writ of habeas corpus issue directed to Kenneth C. Royall, Secretary of the Army of the United States, Washington, D. C.

4. That a writ of habeas corpus issue directed to Gen. Omar N. Bradley, Chief of Staff of the Army of the United States, Washington, D. C.

5. That service be perfected on Thomas C. Clark, Attorney General of the United States, Washington, D. C.

6. That respondents Harry S. Truman, James V. Forrestal, Kenneth C. Royall and Gen. Omar N. Bradley be directed to withhold instantly any action contemplated in the execution or hanging of any of the plaintiffs herein by the commandant of the Landsberg prison in Germany until further order of this Court.

7. That respondents be required to furnish any necessary copies of the original record and all allied papers, documents, and exhibits to this honorable Court and furnish petitioner with two copies of the original record and all allied papers, which shall include two copies of all reviews made in said Malmedy case.

8. That, after sufficient time has been afforded petitioner to read and study the proceedings of the trial and reviews, petitioner may amend or make additions to this petition to conform to the record if any changes are necessary.

9. That respondents furnish to petitioner any necessary German-English translations of papers and documents received from plaintiffs or their German attorneys in connection with this case.

10. That respondents shall be required to cooperate with petitioner in the taking and securing of any necessary depositions of plaintiffs herein or of witnesses to the extent that the truth may be freely testified to, rather than the fear of prosecution. Also that depositions may be had, where necessary, from members of the prosecution staff; and

11. That respondents shall do what this honorable Court shall order and direct concerning the illegal detention and restraint of plaintiffs herein.

WILLIS M. EVERETT, Jr.,
Petitioner.

(Willis M. Everett, Jr., 402 Connally Building, Atlanta, Ga., attorney for petitioner and plaintiffs; Everett & Everett, attorneys of counsel.)

STATE OF GEORGIA,
County of Fulton, ss:

Personally appeared before me Willis M. Everett, Jr., who, being duly sworn, deposes and says:

1. That affiant is a citizen and resident of the State of Georgia;

2. That affiant is the petitioner named above; and

3. That affiant has read the foregoing petition and knows the contents thereof and that the same are true of my own knowledge except as to the matters therein which are on information and belief, and as to those matters affiant believes them to be true.

4. That affiant has carefully examined the case and has just cause and verily believes that because of poverty, petitioners are unable to pay costs or give security therefor. It is further stated with certainty that no agreement or understanding has been entered into between plaintiffs herein and this affiant for any compensation for the services of affiant and there is no understanding to pay this affiant on the part of anyone whatsoever in or on behalf of plaintiffs herein.

WILLIS M. EVERETT, Jr.

Sworn to and subscribed before me this 11th day of May 1948.

[SEAL] MARY EVERETT TOWNSEND,
Notary Public, State of Georgia at Large.

My commission expires April 2, 1950.

EXHIBIT A

Internal route slip, headquarters, U. S. forces, European theater

APRIL 26, 1946

DISCHARGE OF GERMAN PRISONERS OF WAR

No.	From	Pass to	Date	Has this paper been coordinated with all concerned?
1	JA., War Crimes Branch.	G-1, German Affairs Group.	Apr. 26, 1946	1. The Malmedy War Crimes case involving seventy-four (74) members of the German military establishment is scheduled to go to trial at Dachau, Germany, on or about May 2, 1946. 2. In order to preclude the possibility of legal complications arising with respect to the trial of the case, it is desirable that the provisions of "Disbandment Directive No. 8," Headquarters, United States Forces, European Theater, dated February 16, 1946, be carried out at once. It is therefore requested that the perpetrators in this case named in the attached list, now in custody at Dachau, be immediately discharged as prisoners of war and documented as civilian internees. 3. It is requested that this office be advised when documentation as civilian internees has been accomplished. (S) C. B. MICKELWAIT, *Colonel, JAGD,* *Deputy Theater Judge Advocate.* 1 encl., as stated. Telephone Wiesbaden 8707. Forwarded for your immediate action. For the A C of S, G-1: (S) HAL H. COOK, *Lieutenant Colonel, GSC.* 1 encl: n/c (For J. M. Coleman, Lieutenant Colonel, GSC, Chief, German Affairs Branch).
3	TPM USFET....	G-1, German Affairs, JA War Crimes Branch (in turn).	May 31, 1946	Documentation as civilian internees as requested in c/n above was completed on May 9, 1946. For and in the absence of the Theater Provost Marshal: (S) FREDERICK R. LAFFERTY, *Colonel, Cavalry,* *Deputy Theater Provost Marshal.* /51, 3-3771 1 encl: n/c
4	G-1 GA Br.....	JA War Crimes Branch.....	June 4, 1946	GA/RWG/cws/2-4607. Request contained in Minute No. 1 has been complied with. For the A. C. of S., G-1. (S) A. F. S. MACKENZIE, *Lieutenant Colonel, GSC,* *Acting Chief, German Affairs Branch.* Encl: n/c

EXHIBIT B

MILITARY GOVERNMENT COURT—CHARGE SHEET

DACHAU, GERMANY, *April 11, 1946.*

Names of the accused: Valentin Bersin, Friedel Bode, Marcel Boltz, Willi Braun, Kurt Briesemeister, Willi Von Chamier, Friedrich Christ, Roman Clotten, Manfred Coblenz, Josef Diefenthal, Josef (Sepp) Dietrich, Fritz Eckmann, Arndt Fischer, Georg Fleps, Heinz Friedrichs, Fritz Gebauer, Heinz Gerhard Godicke, Ernst Goldschmidt, Hans Gruhle, Helmut Haas, Max Hammerer, Armin Hecht, Willi Heinz Hendel, Hans Hennecke, Hans Hillig, Heinz Hofman, Joachim Hofman, Hubert Huber, Siegfried Jakel, Benoni Junker, Friedel Kies, Gustav Knittel, Georg Kotzur, Fritz Kraemer, Werner Kuhn, Oskar Klingelhoefer, Herbert Losenski, Erich Mauto, Arnold Mikolaschek, Anton Motzheim, Erich Munkemer, Gustav Neve, Paul Hermann Ochmann, Werner Pedersen, Joachim Peiper, Hans Pletz, Georg Preuss, Hermann Priess, Fritz Rau, Theo Rauh, Heinz Rehagel, Rolf Roland Reiser, Wolfgang Richter, Max Reidder, Rolf Ritzer, Axel Rodenburg, Erich Rumpf, Willi Schaefer, Rudolf Schwanbach, Kurt Sickel, Oswald Siegmund, Franz Sievers, Hans Siptrott, Gustav Adolf Sprenger, Werner Sternebeck, Herbert Stock, Erwin Szyperski, Edmund Tomczak, Heinz Tomhardt, August Tonk, Hans Trettin, Johann Wasenberger, Erich Werner, Otto Wichmann, Paul Zwigart, are hereby charged with the following offenses:

First charge: Violation of the laws and usages of war.

Particulars: In that Valentin Bersin, Friedel Bode, Marcel Boltz, Willi Braun, Kurt Briesemeister, Willi Von Chamier, Friedrich Christ, Roman Clotten, Manfred Coblenz, Josef Diefenthal, Josef (Sepp) Dietrich, Fritz Eckmann, Arndt Fischer, Georg Fleps, Heinz Friedrichs, Fritz Gebauer, Heinz Gerhard Godicke, Ernst Goldschmidt, Hans Gruhle, Helmut Haas, Max Hammerer, Armin Hecht, Will Heinz Hendel, Hans Hennecke, Hans Hillig, Heinz Hofmann, Joachim Hofmann, Hubert Huber, Siegfried Jakel, Benoni Junker, Friedel Kies, Gustav Knittel, Georg Kotzur, Fritz Kraemer, Werner Kuhn, Oskar Klingelhoefer, Herbert Losenski, Erich Maute, Arnold Mikolaschek, Anton Motzheim, Erich Munkemer, Gustav Neve, Paul Hermann Ochmann, Werner Pedersen, Joachim Peiper, Hanz Pletz, Georg Preuss, Hermann Priess, Fritz Rau, Theo Rauh, Heinz Renagel, Rolf Roland Reiser, Wolfgang Richter, Max Rieder, Rolf Ritzer, Axel Rodenburg, Erich Rumpf, Willi Schaefer, Rudolf Schwambach, Kurt Sickel, Oswald Siegmund, Franz Siever, Hans Siptrott, Gustav Adolf Sprenger, Werner Sternebeck, Herbert Stock, Erwin Szyperski, Edmund Tomczak, Heinz Tomhardt, August Tonk, Hans Trottin, Johann Wasenberger, Erich Werner, Otto Wichmann, Paul Zwigart, German nationals or persons acting with German nationals, being together concerned as parties, did, in conjunction with other persons not herein charged or named, at or in the vicinity of Malmedy, Honsfeld, Buellingen, Ligneuville, Stoumont, La Gleize, Cheneux, Petit Thier, Trois Ponts, Stavelot, Wanne, and Lutrebois, all in Belgium, at sundry times between December 16, 1944, and January 13, 1945, willfully, deliberately, and wrongfully permit, encourage, aid, abet, and participate in the killing, shooting, ill-treatment, abuse, and torture of members of the armed forces of the United States of America, then at war with the then German Reich, who were then and there surrendered and unarmed prisoners of war in the custody of the then German Reich, the exact names and numbers of such persons being unknown but aggregating several hundred, and of unarmed Allied civilian nationals, the exact names and numbers of such persons being unknown.

HOWARD F. BRESEE,
Colonel, CMP, Army of the United States, officer preferring charges.

The above charges are referred for trial to the general military court appointed by paragraph 24, Special Order No. 90, Headquarters Third United States Army, dated April 9, 1946, to be held at Dachau, Germany, on or about May 2, 1946.

By command of Lieutenant General Keyes:

W. G. CALDWELL,
Colonel, Adjutant General's Dept., Acting Adjutant General.

EXHIBIT C

IN A GENERAL MILITARY GOVERNMENT COURT OF THE UNITED STATES OF AMERICA, CAMP DACHAU, GERMANY

In the matter of the accused, Bersin, Valentin, et al.

Motion to withdraw confessions or statements of accused

1. Now come the defendants or accused and move to withdraw all their statements or confessions and expunge all reference thereto from the record.

A. (1) All of the above defendants were prisoners of war until April 11, 1946, which date was the day of the service of charges against each defendant. On and after April 11, 1946, each of the defendants was removed from the status of prisoner of war and became accused war criminals.

(2) The only law controlling this point is the Yamashita case in the Supreme Court of the United States of America which is quoted as follows:

"The day of final reckoning for the enemy arrived in August 1945. On September 3, the petitioner surrendered to the United

States Army at Baguio, Luzon. He immediately became a prisoner of war and was interned in prison in conformity with the rules of international law. On September 25, approximately 3 weeks after surrendering, he was served with the charge in issue in this case. Upon service of the charge he was removed from the status of a prisoner of war and placed in confinement as an accused war criminal."

Although this opinion is in Justice Murphy's minority opinion, it is in no sense a dissent from the majority opinion, as the issue was not raised in the petition. The majority opinion is therefore silent on this subject and the Court was not asked to decide this point. No other law or decision touches on this "change of status" and this expression of fact is the controlling law.

B. (1) Under the Geneva Convention, they, as prisoners of war, must be humanely treated and protected, particularly against acts of violence and insults. They should be equally treated. No coercion may be used on them to secure information, and under no circumstances will they be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind whatever. They are entitled to have their honor and person respected. They must have sanitation, open air, and exercise. Under all circumstances, prisoners of war are subject to the laws in force of the detaining power. Does solitary confinement for months or black hoods or mock trials or stool pigeons meet the dignified provisions of the Geneva Convention?

(2) Chapter 6, Prisoners of War of Geneva Convention of July 1929:

(a) Under article 2 the following applicable paragraph is quoted: "They must at all times be humanely treated and protected, particularly against acts of violence, insults, and public curiosity."

(b) Under article 3 the following applicable paragraphs are quoted: "Prisoners of war have the right to have their person and their honor respected. Difference in treatment among prisoners is lawful only when it is based on the military rank, state of physical or mental health, professional qualifications, or sex of those who profit thereby."

(c) Under article 5 the following applicable paragraph is quoted: "No coercion may be used on prisoners to secure information relative to the condition of their army or country. Prisoners who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind whatever."

(d) Under article 9 the following applicable parts of paragraphs are quoted: "They may also be interned in enclosed camps; they may not be confined or imprisoned except as an indispensable measure of safety or sanitation, and only while the circumstances which necessitate the measure continue to exist."

(e) Under article 10 the following applicable paragraph is quoted: "Prisoners of war shall be lodged in buildings or in barracks affording all possible guarantees of hygiene and healthfulness."

(f) Under article 13 the following applicable paragraph is quoted: "It shall be possible for them to take physical exercise and enjoy open air."

(g) Under article 21 the following applicable paragraph is quoted: "Officers and persons of equivalent status who are prisoners of war shall be treated with the regard due to their rank and age."

(h) Under article 45 the following paragraph is quoted: "Prisoners of war shall be subject to the laws, regulations, and orders in force in the armies of the detaining power."

(i) Under article 46 the following applicable paragraph is quoted: "Any corporal punishment, any imprisonment in quarters without daylight, and, in general, any form of cruelty, is forbidden."

(j) Under article 56 the following applicable paragraphs are quoted: "In no case may prisoners of war be transferred to penitentiary establishments (prison, penitentiaries, convict prisons, etc.) there to undergo disciplinary punishment. These prisoners shall every day be allowed to exercise or to stay in the open air at least 2 hours."

C. (1) As prisoners of war under the Geneva Convention, all confessions were extracted by using varying degrees of force, duress, trickery, deception, mock trials, ceremonies, including the passing of judgment on those accused. In every situation involving a stress on the physical well-being, the natural impulses dominate the reasoning faculties. Any alternative that promises relief from a present intolerable situation is accepted without regard to consequences. When the primary feelings are stirred, the reasoning faculties are practically suspended. Under a promise or inference of relief, a person will choose to make a false confession as the speediest way to make his freedom certain. The question arises: Was the situation such that there is a reasonable probability that the accused made a false statement under duress? If so, the confession must be excluded.

(2) Attention is drawn to the opening statement of the prosecution in which the following language was used: "Despite the youth of these suspects, it took months of continuous interrogation in which all the legitimate tricks, ruses, and stratagems known to investigators were employed. Among other artifices used were stool pigeons, witnesses who were not bona fide, and ceremonies."

The prosecution's own witnesses testified on direct examination as follows:

"Question. Did you use any ceremony of any kind in the interrogation of Neve?

"Answer. I guess you would call it a ceremony. We used sort of a mock trial, I guess you would call it. We had whoever wasn't busy sitting in the chairs behind the table, posing as officers hearing the testimony. First the witnesses that we had against him were brought in, and if they were bona fide witnesses, they were sworn. And the interrogator sat down at a table with him and took notes, or maybe he started writing the statement right then.

"Question. Do you know whether or not the accused (sic) were confronted with witnesses who were not bona fide?

"Answer. I know that they were.

"Question. Do you know whether or not the interrogators ever raised their voices during interrogation?

"Answer. I am sure they did.

"Question. Do you know whether or not suspects ever broke down and cried after they had confessed?

"Answer. I saw a few; yes, sir.

"Question. Did they cry silently or did they sob out loud?

"Answer. I think out loud, sir.

"Question. Do you recall any other methods used for eliciting information other than you have already described?

"Answer. No special methods. Each interrogator had his own bag of psychological tricks, you might call it."

D. (1) The laws of military courts martial certainly control insofar as these accused are concerned up to the moment they were served with charges, alleging war crimes, at which time the Supreme Court has ruled that their status changes to a suspected war criminal. Under our court-martial laws no confession could be used and admitted against another jointly accused. In view of the position of authority of the prosecution staff, it will go without contravention that all the accused were in an inferior position and confessions to superiors should be regarded as clearly incompetent. It is not believed that by the widest stretch of imagination could these confessions or statements be used in a trial by courts martial due to the varying degrees of force and duress employed by the prosecution. On the other hand, it is readily conceded that if these statements had been subsequently reexecuted after the accused became suspected war criminals, no grounds for this motion would exist.

(2) On page 329 of Winthrop's Military Law and Precedents, we find the following language with appropriate substantiating cases: "In military cases, in view of the authority and influence of superior rank, confessions made by inferiors, especially when ignorant or inexperienced, and held in confinement or close arrest, should be regarded as incompetent unless very clearly shown not to have been unduly influenced. Statements, by way of confessions, made by an inferior under charges to a commanding officer, judge advocate, or other superior whom the accused could reasonably believe capable of making good his words, upon even a slight assurance of relief or benefit by such superior, should not in general be admitted. And it has been similarly ruled in cases of confessions made by soldiers, upon assurances held out, or intimidation resorted to, by noncomissioned officers."

On page 427, section 493, of Evidence from American Jurisprudence, the following is quoted as a clear statement of the law on confession implicating several persons: "The voluntary confession of a codefendant or coconspirator made after the commission of a crime or the termination of the conspiracy cannot be admitted against the other defendants when such confession was not made in their presence and assented to by them, even though the several defendants are being tried jointly."

This principle is briefly confirmed on page 327 of Winthrop's Military Law and Precedents, as follows: "A judge advocate upon a military trial may desire to keep out of sight a portion of confessions because it implicates parties other than the accused; but this is a reason not recognized as sufficient at law, since a confession is not evidence against any person (not an accomplice) other than the one who makes it."

E. The alleged confessions or statements of these accused are absolutely void and not admissible in evidence in this case. The laws of our Nation provide that a man should have only one wife at a time, and any subsequent marriage without appropriate divorce decrees render the second marriage void. The contracts of minors are void unless subsequent ratification after they reach their majority. The contracting of a party to commit a crime is void. Certain prerequisites are necessary to make a note negotiable, such as date due, a sum certain to be paid, etc., and without those elements they are void. So in criminal laws certain safeguards surround confessions or statements, in order to be admissible and not void. As previously outlined, international law laid down certain safeguards for treatment of prisoners of war, and any confession or statement extracted in violation thereof is not admissible in a court martial or any subsequent trial under a code set up by military government. If a confession from a prisoner of war is born in a surrounding of hope of release or benefit, or fear of punishment or injury, inspired by one in authority, it is void in its inception and not admissible in any tribunal of justice. Could anyone, by artifice, conjure up the theory that the military government rules and ordinances are superior to the solemn agreements of international law as stated in the Geneva Convention of 1939? Is this Court willing to assume the responsibility of admitting these void confessions? Is this Court willing to condemn these accused on written statements that are stained with illegality, due to their being obtained in the first instance in violation of the Geneva Convention to which our Nation is a signatory

and which has been championed from its inception?

F. That the so-called confessions or statements of these accused must be excluded from the record is apparent. It is not believed that the Court will put itself in the anomalous position of accepting statements into evidence which were elicited from prisoners of war in contravention of the Geneva Convention and therefore a violation of the rules of land warfare on the one hand and turn squarely around and mete out punishment for other acts which they deem violation of the same laws. To do so would be highly inconsistent and subject the Court and all American military tribunals to just criticism.

EXHIBIT D

HEADQUARTERS,
THIRD UNITED STATES ARMY,
APO 403, May 10, 1946.

SPECIAL ORDERS NO. 117—EXTRACT

32. Pursuant to authority delegated to the commanding general, Third United States Army, by Commanding General, United States Forces, European Theater, a General Military Court consisting of the following officers is hereby appointed to meet at the time and place designated by the President thereof for the trial of such persons as may be properly brought before it.

Detail for the court

Brig. Gen. Josiah T. Dalbey, O12440, United States Army Headquarters, Third Infantry Division.

Col. Paul H. Weiland, O8418, FA, Headquarters, Third United States Army.

Col. Lucien S. Berry, O4461, Cav., Ninth Infantry Division.

Col. James G. Watkins, O7249, FA, Thirty-second FA Brigade.

Col. Robert R. Raymond, Jr., O12274, FA, Ninth Infantry Division.

Col. Wilfred H. Steward, O8448, CAC, Headquarters Thirty-first AAA Brigade.

Col. Raymond C. Conder, O16131, FA, Headquarters Ninth Infantry Division.

Col. A. H. Rosenfeld, O212685, Inf., Headquarters USFET.

Lt. Col. Granger G. Sutton, O185405, Inf., Headquarters USFET, Trial Judge Advocate.

Lt. Col. Homer B. Crawford, O902586, AC, Headquarters USFET, Assistant Trial Judge Advocate.

Capt. Raphael Shumacker, O1798521, CMP, Headquarters USFET, Assistant Trial Judge Advocate.

First Lt. Robert E. Byrne, O1826233, JAGD, Headquarters USFET, Assistant Trial Judge Advocate.

Mr. Morris Elowitz, US CIV, Assistant Trial Judge Advocate.

Col. Willis M. Everett, Jr., O179702, MI, Headquarters USFET, Defense Counsel.

Lt. Col. John S. Dwinell, O241872, CAC, Headquarters USFET, Assistant Defense Counsel.

Capt. B. N. Narvid, O1557506, CE, Headquarters USFET, Assistant Defense Counsel.

Second Lt. Wilbert J. Wahler, O2052758, JAGD, Headquarters USFET, Assistant Defense Counsel.

Mr. Herbert T. Strong, US CIV, Assistant Defense Counsel.

Mr. Frank Walters, US CIV, Assistant Defense Counsel.

The employment of stenographic assistance is authorized.

By command of Major General Parker:

DON E. CARLETON,
Colonel, General Staff Corps, Chief of Staff.

W. G. CALDWELL,
Colonel, Adjutant General's Department, Acting Adjutant General.

PRINTING OF ADDITIONAL COPIES OF HEARINGS ON EXTENSION OF EUROPEAN RECOVERY PLAN

Mr. CONNALLY. Mr. President, from the Committee on Foreign Relations, I ask unanimous consent to report an original resolution, and request its immediate consideration.

There being no objection, the resolution (S. Res. 87) was considered by unanimous consent and agreed to, as follows:

Resolved, That 1,000 additional copies of the hearings held before the Committee on Foreign Relations on extension of the European recovery program be printed for the use of said committee.

ADDITIONAL TIME TO FILE REPORT ON ECA BILL

Mr. CONNALLY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations may have 48 hours additional time in which to file its report on the ECA bill.

The VICE PRESIDENT. Without objection, it is so ordered.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. TYDINGS, from the Committee on Armed Services:

S. 1219. An original bill removing certain restrictions and conditions imposed by section 2 of the act of May 27, 1936, on certain of the lands conveyed by such act to the city of Charleston, S. C.; and for other purposes (Rept. No. 103);

H. R. 2216. A bill to amend the National Security Act of 1947 to provide for an Under Secretary of Defense; without amendment (Rept. No. 104);

H. R. 2485. A bill to authorize the attendance of the United States Marine Band at the Eighty-third and Final National Encampment of the Grand Army of the Republic to be held in Indianapolis, Ind., August 28 to September 1, 1949; without amendment (Rept. No. 105); and

H. R. 2663. A bill to provide for the administration of the Central Intelligence Agency, established pursuant to section 102, National Security Act of 1947, and for other purposes; without amendment (Rept. No. 106).

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. TYDINGS:

S. 1218. A bill to provide for a preliminary examination and survey for the construction of a channel from the yacht basin at Havre de Grace to connect with the Oakington Channel; to the Committee on Public Works.

(Mr. TYDINGS, from the Committee on Armed Services reported an original bill (S. 1219) removing certain restrictions and conditions imposed by section 2 of the act of May 27, 1936, on certain of the lands conveyed by such act to the city of Charleston, S. C.; and for other purposes, which was ordered to be placed on the calendar.)

CONFIRMATION OF CERTAIN NOMINATIONS IN THE ARMED SERVICES

Mr. TYDINGS. Mr. President, from the Committee on Armed Services, I report numerous routine promotions in the Army, the Navy, and in the Air Force, and, as in executive session, I ask unanimous consent for their immediate consideration, and that the President may be notified of the confirmations.

The VICE PRESIDENT. Is there objection to the present consideration as in executive session of the promotions in the armed services? The Chair hears none, and without objection, the nominations are confirmed, and the President will be notified.

JOHN ERICSSON, CITIZEN OF THE WORLD—ADDRESS BY SENATOR JOHNSON OF COLORADO

[Mr. JOHNSON of Colorado asked and obtained leave to have printed in the RECORD a program for a memorial ceremony at the John Ericsson Monument in Washington, D. C., on March 9, 1949, together with the speech delivered by him on that occasion, which appears in the Appendix.]

REQUEST FOR CONSIDERATION OF ROUTINE BUSINESS

Mr. LUCAS. Mr. President, in view of the present situation, I ask unanimous consent that all Senators who at this time desire to submit matters for the RECORD or introduce bills or joint resolutions may be permitted to do so, as though it were in the morning hour, without debate, and without prejudicing or changing the parliamentary situation.

The VICE PRESIDENT. Is there objection?

Mr. CAIN. Mr. President, reserving the right to object; yesterday the distinguished floor leader, the Senator from Illinois, a man whom I consider to be a very good friend, imposed an extremely severe and most unusual form of gag rule against one of his constituents and some of mine. I wonder if the Senator from Illinois intends to act now as he did yesterday in his self-imposed role of censor for what is offered for the Appendix of the RECORD.

Mr. LUCAS. I cannot answer that question until the Senator makes his unanimous consent request.

Mr. CAIN. The Senator from Illinois has made a unanimous consent request to permit all Senators to submit matters for the RECORD.

Mr. LUCAS. That is correct. I cannot answer the Senator's question as the situation now is. If the Senator from Washington desires to object——

Mr. CAIN. The Senator from Washington does object.

The VICE PRESIDENT. Objection is made.

Mr. FERGUSON. Mr. President, I want to send to the desk a bill for appropriate reference.

Mr. LUCAS. Objection has been made.

The VICE PRESIDENT. The Senator from Illinois is recognized.

Mr. FERGUSON. Will the Senator from Illinois yield to me for the purpose of introducing a bill?

Mr. LUCAS. I yield to the Senator from Michigan for that purpose.

Mr. FERGUSON. Out of order, Mr. President, I ask unanimous consent to send to the desk a bill for appropriate reference.

The VICE PRESIDENT. Unless unanimous consent is given to the Senator from Illinois to yield to the Senator from Michigan for that purpose, it cannot be done.

Mr. WHERRY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. WHERRY. If the Senator from Michigan were to obtain the floor by reason of the majority leader yielding to him, would it not be in order for the Senator from Michigan to ask unanimous consent to introduce a bill?

The VICE PRESIDENT. Under the rule the Senator from Illinois can yield to the Senator from Michigan only for a question.

Mr. WHERRY. But if the Senator from Illinois were to yield to the Senator from Michigan for a question, could not the Senator from Michigan propound a question in the form of a request for unanimous consent to introduce a bill?

The VICE PRESIDENT. The Senator from Illinois could ask unanimous consent to yield to the Senator from Michigan to introduce a bill, without prejudicing the parliamentary situation.

Mr. LUCAS. Mr. President, I ask unanimous consent that I may yield to the Senator from Michigan for the purpose of introducing a bill, without thereby prejudicing the parliamentary situation.

The VICE PRESIDENT. Is there objection?

Mr. CAIN. I object.

The VICE PRESIDENT. The Senator from Washington objects.

PRESENTATION OF CLOTURE PETITION

Mr. LUCAS. Mr. President, in a few minutes I shall send to the desk a petition to end debate on the motion to take up the Hayden-Wherry resolution.

This subject has occupied the attention of the Senate for 10 long days. None of us in this Chamber, I am sure, holds the idea that debate ought ever to be closed before the subject under consideration has been thoroughly explored. Full and free debate lies at the very heart of the democratic process. But the privilege of full debate carries with it the responsibility for eventual action.

In my judgment, the time for action has arrived. I respectfully submit that 10 days is more than ample time fully to explore and properly present the merits or demerits of a simple motion to take up a resolution. In ninety-nine cases out of one hundred such motions are passed without any debate at all. Therefore, Mr. President, we should not blind ourselves to what everyone knows—namely, that a determined minority of the United States Senate is attempting endless debate to keep us from fulfilling our legislative duties.

We have been elected by the people of our respective States as lawmakers. It is our primary duty to create the laws desired by the people and we must have rules under which the business of the Senate may be expedited. The Senate must not hang itself on the rope of its own rules. I wish to congratulate the Senators of both parties who have signed this petition to enable the Senate to rise to its responsibilities.

Although I am sure it will be contended by those who are participating in this endless debate that it is not a filibuster, no reasonable man can conscientiously deny that it is, if he will honestly analyze the record which has been made during the past 10 days.

I am perfectly aware that there are those in this body who are convinced that a cloture petition cannot be filed to close debate on a motion. But if I did not believe that the petition I hold in my hand is completely proper under the rules, I would not offer it. I shall have more to say later in defense of the petition at the appropriate time.

I now wish to present a simple statement of the basic truth at stake here. We are faced with the urgent necessity of making it possible for this legislative body to uphold the faith of our citizens in parliamentary government. Above and beyond all rules stands the firm expectation of the people of the United States that the Senate will prove that it can act when the time arrives for action.

Mr. President, I present the cloture petition, with the additional announcement that the Senator from Minnesota [Mr. HUMPHREY], who is absent by leave of the Senate because of the serious illness of his father, has requested me to state that had it been possible for him to do so, he would have signed the cloture petition.

The VICE PRESIDENT. The rule requires that the Presiding Officer shall read the petition to the Senate. If it is agreeable to the Senate, the Chair will ask the clerk to read it in his stead.

The legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the motion that the Senate proceed to the consideration of the resolution (S. Res. 15) amending the so-called cloture rule of the Senate.

SCOTT W. LUCAS; FRANCIS J. MYERS; ELBERT D. THOMAS; JAMES E. MURRAY; CLINTON P. ANDERSON; J. HOWARD MCGRATH; PAUL H. DOUGLAS; THEODORE FRANCIS GREEN; GLEN TAYLOR; HARLEY M. KILGORE; BRIEN MCMAHON; CLAUDE PEPPER; DENNIS CHAVEZ; JOSEPH C. O'MAHONEY; M. M. NEELY; BERT H. MILLER; WARREN G. MAGNUSON; WILLIAM F. KNOWLAND; H. C. LODGE, JR.; IRVING M. IVES; CHAS. W. TOBEY; LEVERETT SALTONSTALL; RALPH E. FLANDERS; ROBERT A. TAFT; HOMER FERGUSON; RAYMOND E. BALDWIN; OWEN BREWSTER; EDWARD J. THYE; MARGARET CHASE SMITH; WAYNE MORSE; H. ALEXANDER SMITH; CLYDE M. REED; ROBERT C. HENDRICKSON.

Mr. RUSSELL. Mr. President, I rise to a point of order.

The VICE PRESIDENT. The Senator will state the point of order.

Mr. RUSSELL. I desire to make the point of order that under the provisions of rule XXII of the Senate the petition just offered by the Senator from Illinois is not in order.

Mr. President, I realize that in discussing this matter I speak at the sufferance of the Chair. I shall, therefore, not undertake to answer the argument made by the distinguished Senator from Illinois prior to his presentation of the petition, nor shall I undertake to answer the barrage of oratory laid down today by those who favor the course of action which the Senator from Illnois now proposes. I shall confine my remarks, if the Chair will permit, purely to the parliamentary question involved.

Mr. President, this is not a new question.

The VICE PRESIDENT. The Chair may say to the Senator from Georgia, and all other Senators, that debate on the general situation is not in order on the point of order. The Chair is not interested in hearing any argument except on the point of order made by the Senator from Georgia.

Mr. RUSSELL. Mr. President, I shall endeavor to comply with the rule, which is as properly stated by the Chair.

The effort to file a petition to close debate at this stage of the parliamentary proceedings of the Senate flies in the teeth of the express letter, the very wording, of rule XXII of the Senate, as well as every precedent that has been established by Presiding Officers of the Senate on five separate occasions, upon two of which the decision of the Chair was upheld by a vote of the Senate.

I shall take the liberty of reading briefly from rule XXII:

If at any time a motion—

Notice the word "motion," Mr. President—

signed by 16 Senators, to bring to a close the debate upon any pending measure is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate—

I shall not read all the rule, because I am sure that in view of the extensive discussion which has occurred with respect to this question in the press and over the air waves, as well as on the floor of the Senate, all Senators have read rule XXII. The crux of the matter is in the words "pending measure," and the question whether or not a motion is a pending measure.

This matter is to me, by law and by precedent, crystal clear. In parliamentary terms, parliamentarily speaking, there is a great difference—not a distinction, but a great difference—between a motion and a pending measure. The words "pending measure," as they have been uniformly construed by Presiding Officers of the Senate, and on two occasions sustained by a vote of the Senate, relate to substantive legislation, to a bill or to a resolution, and do not apply to a mere motion.

Mr. President, this matter could not be clearer than from a reading of all of rule XXII. Rule XXII, within itself, clearly makes the distinction between a measure and a motion. The first line of the rule is:

When a question is pending, no motion shall be received but—

Then it outlines the motions which are in order, as distinguished from a measure which is pending at the time the motion is made.

In the body of the rule, in the last paragraph, it refers to motions which cannot be made after a cloture petition is filed with respect to a pending measure. This matter could not have been more clearly illustrated than by the statement of the present distinguished Presiding Officer of the Senate on the day this question was first presented to this body. On that occasion the Presiding Officer advised with the Senate as to the parliamentary situation. His advice clearly differentiates between a motion and a measure, and establishes beyond any peradventure that a cloture petition will not lie against a motion, because it cannot be a measure, under the Presiding Officer's statement. I refer to page 1584 of the CONGRESSIONAL RECORD of February 28, where the Chair stated, before recognizing the Senator from Arizona [Mr. HAYDEN], chairman of the committee:

Before recognizing the Senator from Arizona, chairman of the committee, the Chair wishes to make a statement for the information and advice of the Senate in regard to procedure in debate.

This is the first statement which the Chair made:

In the first place, a motion to proceed to the consideration of a bill or a resolution cannot be amended by a motion to take up some bill in lieu of the one which is the subject of the pending motion.

Later, as found on page 1585, the distinguished majority leader asked this question of the Chair:

Do I correctly understand the Chair holds that any motion to lay aside the resolution amending the cloture rule, or a motion to take up another measure, would be out of order?

Another measure, mind you.

The VICE PRESIDENT. No motion to proceed to the consideration of another bill, either as an amendment or substitute to the pending motion, is in order.

That statement of the Presiding Officer, together with his preliminary statement that the motion was not subject to amendment, forever removed this motion from the realm of being a measure, if it was necessary to do so, and if the precedents in this case would not suffice, because it clearly distinguished between a motion and a measure.

That appears from rule XXII itself, in the first part of the rule, before we come to the paragraph which provides for the filing of a cloture petition upon a measure. It cannot be a measure if it is not subject to amendment.

I did not protest the Chair's ruling, because I agreed with him that this was a mere motion, and therefore did not come under the terms of rule XXII. Why do I say that? I invite attention to page 26 of the Standing Rules of the Senate. This is the language:

When a question is pending, no motion shall be received but—

Then it outlines several motions which may be made. When we get down to the last one, it says that there can be made a motion to amend, if it is a measure. A motion to commit may be made under rule XXII, if it is a measure. But a motion to amend a motion may not be made, nor may a motion to commit a motion be made.

When the Presiding Officer clearly distinguished, in his ruling, between a motion and a measure, it removed forever from the purview of rule XXII any effort to file a cloture petition, because it established, as clearly as do all the precedents in this case, the distinction between a motion and a measure.

I submit, Mr. President, that if the pending issue before the Senate is not subject to amendment, and is not subject to a motion to commit, as was ruled by the Chair in response to the question of the Senator from Illinois, and as had been earlier stated by the Chair on his own initiative, it cannot be a measure, but is a mere motion, and is therefore not subject to a petition for cloture. It has been uniformly held by every Presiding Officer that a pending measure may be a bill or a resolution, but not any of the incidental questions which may arise in the operation of the parliamentary machinery of the Senate. I have given some study to this subject. I have carefully read every word and every line of the debate which occurred in the Senate when this rule was first adopted in 1917. Not a single speaker inferred any intent or purpose in adopting this rule to make it apply to a simple motion. All the discussion shows that it was intended to apply only to matters of substantive legislation, such as are embraced within a bill or a resolution.

The first precedent which arose in this matter was established in November 1919. Not only was it established by a ruling by the then Presiding Officer—and of course a ruling by a Presiding Officer of the Senate is a binding precedent unless it is overturned—but it was established by the Senate on a vote. In that case, Mr. President, as the Chair realizes, of course, an attempt was made to file a petition for cloture to end debate in the Senate on reservations which had been offered by the then senior Senator from Massachusetts, the late Senator Lodge, to a resolution which he had offered providing for the establishment of peace with Germany. The attempt to file the cloture petition was directed only at the reservations and the resolution. A point of order was made by the late Senator George Norris, with whom so many of us served here, that the reservations and the resolution were not a pending measure, but that the pending measure was the treaty. The Chair sustained the point of order which was made by Senator Norris, holding in effect that cloture could apply only to a bill or a resolution, and would not be applicable to any of the collateral matters which come before the Senate, such as the present motion to proceed to the consideration of Senate resolution 15.

Mr. President, it is interesting to me to note the comment which was made by Senators who were present in that debate and who had also participated in the drafting of this rule. It showed to me very clearly that men like Senator Underwood and Senator Hitchcock, who filed the cloture petition, never thought that rule XXII, the cloture rule, was in fact so all-embracing as is proposed in connection with the attempt to make it apply in this case. Senator Hitchcock went so far as to say that in his opinion the treaty which was before the Senate could not be construed as a pending measure under the terms of rule XXII. Senator Underwood said:

This is a poor excuse for a rule.

Mr. President, those were his very words.

Of course, today many Members of the Senate say that it is a poor rule that we have. Nevertheless, it was the rule that the cloture petition would lie only to substantive legislation.

Mr. President, there are two other precedents, which, although not foursquare with this issue, do throw a good deal of light upon it:

In 1927 there were two rulings by the then Vice President Dawes, in which the issue arose as to whether cloture could lie to other than the measure pending before the Senate. In those cases Vice President Dawes—and all of us know there never has been a greater advocate of changing the rules of the Senate than former Vice President Dawes—ruled that the cloture petition applied only to the measure which was then pending before the Senate.

The next ruling which was made in this matter came on February 4, 1946, when the distinguished senior Senator from Tennessee [Mr. MCKELLAR], the present President pro tempore of the Senate, was the Presiding Officer. In that case there was a collateral issue before the Senate, in the form of an amendment to the Journal. The bill had already been made the pending business, but after an adjournment, there intervened a discussion as to the approval of the Journal. In that case Senators recognized what had been recognized by every parliamentarian, what had been held by every person who had had occasion to study this matter, namely, that a cloture petition cannot properly be filed on a motion. So in that case, Senators did not undertake to file a cloture petition on the motion, knowing that such a petition would not lie to the motion to amend the Journal, but they sought to go around the motion to amend the Journal, which was impervious to cloture, and to file the cloture petition as against the bill, which as I recall was Senate bill 105.

The Presiding Officer, of course, ruled—and he properly ruled, in view of the clear wording of the rule and the precedents in the case—that the matter before the Senate was the motion to amend the Journal; and that the motion to amend the Journal not being subject to cloture, it would be a mere subterfuge to go around the motion and apply cloture to the bill, which was not before the Senate at the time.

Mr. President, those precedents bring us down to the ruling which was made by the able and distinguished senior Senator from Michigan [Mr. VANDENBERG], which follows in orderly course all the precedents involved in this matter, but which is foursquare with the issue which

is sought to be presented now by the Senator from Illinois [Mr. LUCAS]. That ruling clearly establishes that under the rules and precedents of the Senate a petition for cloture does not apply to a mere motion. I am sure every person who was present when the distinguished Senator from Michigan made that ruling was impressed with the travail of spirit which afflicted him, and was impressed with the fact that he was compelled to rule against a position in which he believed, or against legislation in which he believed, in order to sustain the rules and the precedents of the Senate. I shall read a few extracts from that ruling:

The Chair wishes to state at the outset—

Said the Senator from Michigan—

that he is deeply conscious of the importance of preserving the integrity of congressional procedures, which, in the Chair's judgment, transcends at this critical hour in the world's history any possible transient advantages which might come from ruling of a different character.

The Chair is also conscious of a very great personal embarrassment and difficulty in rendering the decision because of his well-known prejudice in respect to the basic issues involved. He favors the anti-poll-tax legislation. He believes that debate should come to an end after a reasonable period, and he emphatically agrees that the Senate should be in ultimate control of its own destiny.

In making the ruling which the Chair will shortly announce he hopes that it may be entirely plain that he is not only putting aside all his own personal prejudices and predilections, but that he is also not undertaking, even by indirect inference, to rule upon the merits of the pending measure. He is dealing solely with what he considers to be his responsibility under oath, as an officer of the Senate, required to deal with the Senate on the basis of his best judgment and honest reflection of what the Senate rules require.

I did not read all of it, because I have covered generally, in my feeble way, not with the eloquence of the Senator from Michigan, the precedents in the case, which I have already stated.

As Members of the Senate are aware, there is now pending on the Senate Calendar a resolution, Senate Resolution 25, favorably reported from the Committee on Rules and Administration, which is designed to bring about such an amendment of the rule.

The Senate is familiar with the fact that the precedents of the Senate clearly indicate that a motion to approve the Journal cannot be brought within the jurisdiction of cloture action, and that conclusion has been very widely and generally accepted by all Senators with whom the Presiding Officer has ever conversed on this subject.

* * * * *

What is the basic measure at this moment?

Mr. President, I shall skip over that portion of the ruling and come to this statement of the Senator from Michigan, still speaking as the President pro tempore of the Senate:

The President pro tempore is not entitled to consult his own predilections or his own convictions in the use of this authority—

Referring to the authority of the Presiding Officer.

He must act in his capacity as an officer of the Senate under oath to enforce its rules as he finds them to exist, whether he likes them or not, and whether he agrees with them or not. Of all the precedents necessary to preserve, this is the most important of all. Otherwise the preservation of any minority rights for any minority at any time would become impossible.

The President pro tempore is a sworn agent of the law as he finds the law to be. Only the Senate has the right to change the law. The President pro tempore feels that he is entitled particularly to underscore this axiom in the present instance, because the present circumstances themselves bring it into such bold and sharp relief.

I pass over to this statement of the distinguished then Presiding Officer:

It was conceded when this committee reported, on March 24, 1947, more than 1 year ago, Senate Resolution 25, which seeks to make the existing Senate cloture rule succeed in its purported power to permit two-thirds of the Senate to curb unlimited debate. That resolution has been on the Senate Calendar for 16 months. It has not been adopted. It is intended to prevent the precise purpose sought by the pending point of order. Its presence on the Senate Calendar, by order of the Rules Committee, is, in the opinion of the Chair, complete proof that the Senate Rules Committee admits the validity of the pending point of order. The President pro tempore cannot be expected to cure, by an arbitrary ruling, the existing fatal defect in the cloture rule which the Senate itself has been invited, but has thus far declined, to cure.

After that statement by the Senator from Michigan, he sustained the point of order and ruled that the cloture petition did not apply to a mere motion; thereby following all the precedents and complying with the letter of the law.

In the case before us today, we have an instance wherein not once has the Rules Committee reported that this defect existed in the rule, but twice. In the Eightieth Congress the Rules Committee gave the matter exhaustive study and reported and stated in the committee report that there was a defect in the rule. In the Eighty-first Congress we have an effort to take from the calendar the very rule which it is now sought to circumvent and strike down by a ruling from the Chair that the rule is not necessary.

Mr. President, the Rules Committee of this body stands as an equal of any other committee of the Senate. It is charged with certain definite responsibilities, one of which is to study the rules and make suggestions for change. In this instance we have the commiteee charged with that responsibility in two different Congresses reporting that the cloture rule could not be applied to a mere motion, and suggesting that it be changed. Now we are told that, because of the fact that debate has gone on for a few days, in effect we should take a short cut and not follow the rules of the Senate which provide for their own amendment.

The Senator from Illinois invokes a ruling from the Chair that the Rules Committee of the Senate has done not only a vain but a foolish thing to struggle with this matter through two Congresses, to hold extensive hearings, to report resolutions to the Senate and seek to have them considered by the Senate, because if the cloture petition would lie as presented by the Senator from Illinois, the Rules Committee of the Senate has wasted its time, and all the Presiding Officers of the Senate who have ever passed upon this question were likewise in error.

Mr. President, the distinguished present occupant of the chair was a Member of the Senate. There has been much comment in the press about the views of the present occupant of the chair on this question, and I must confess it has been discussed somewhat around the Senate Chamber. But the then Senator from Kentucky, as a Member of this body, August 4, 1948, made a statement which showed conclusively the establishment of this precedent and the necessity for adopting an amendment to correct the rule if cloture were to be applied to a motion. I read briefly from the remarks of the present Presiding Officer of the Senate, the then Senator from Kentucky. It will be recalled, I am sure, that the Senator was speaking after a statement had been made by the Senator from Nebraska [Mr. WHERRY] that it was necessary for an amendment to be adopted in order to cure the rules and that it could not be done at that session of the Congress.

Mr. BARKLEY. Mr. President, I appreciate what the Senator from Nebraska, the acting majority leader, has said in regard to the present status of the rules of the Senate. There is no need to reiterate what has happened here in the past. When I was confronted with the same situation which confronts him I repeatedly stated that I favored an amendment to the rules of the Senate so that it would not be impotent when a well-organized group of a few Senators, or many, as the case might be, could, if they wished, tie up legislation indefinitely.

The other day when the Chair ruled against the cloture petition filed by the Senator from Nebraska, I then took the position, which I felt was justified, that when the Senate adopted the rule XXII it really thought it was bringing about the termination of debate on any matter which was pending before it, which was the subject of extended debate, which has come to be known as a filibuster. I still entertain that viewpoint. But the Chair ruled otherwise, and there is now an appeal from that decision pending.

I do not know how long it will take to amend the rules of the Senate. There has been a resolution on the calendar for 17 months to amend the rules of the Senate. So far as I recall, no effort has been made to bring that resolution before the Senate for consideration, and no motion has been made to take it up. I realize that on such a motion the same course could be pursued as on the motion now pending.

The then Senator from Kentucky concluded with these remarks:

Therefore, I not only am now, but have been in the past, and shall continue in the future, so long as I am a Member of this body, to be earnestly in favor of an amendment to the Senate rules—

Not to a ruling by the Chair that reverses the precedents and rules—

to be earnestly in favor of an amendment of the Senate rules that will make it possible for the Senate to function under any conditions which may arise in the deliberations of this body and in the consideration of legislation. It is a situation and a condition which does not prevail in any other legislative body in the world.

So I wanted to say to the Senator from Nebraska, that, notwithstanding the fact that for 17 months there has been on the

calendar a resolution to amend the rules—and no effort has heretofore been made to bring it up—and I presume no effort is to be made to bring it up at this session—whenever it comes up—

The amendment, in the orderly processes prescribed by our rules for amendment of the rules—

whenever it comes up, at this session or at the next session, I am in favor of such an amendment of the rules—

Not the rule that exists, that cloture will apply through a simple motion, but—

I am in favor of such an amendment of the rules as will make it possible for the Senate of the United States to function as an ordinary legislative body.

Mr. President, I do not desire to tire the Chair by reading statements of Senators on this subject, but I think that the distinguished Senator from Arizona [Mr. HAYDEN], the present Chairman of the Committee on Rules and Administration, who is charged with responsibility in this matter, should be quoted in the course of this point of order. This statement was made before the ruling of the distinguished Senator from Michigan which followed and more firmly established the precedent that a petition for cloture does not lie to a motion to proceed, and which sustains the point of order I have made.

I shall read very briefly from the statement of the Senator from Arizona. We all know he is a man not given to many words he expresses himself clearly in a few words. He was discussing what the Committee on Rules and Administration had found in the last session of Congress, just as has been found in this session, that a cloture petition does not lie to a motion to take up a bill. This is the Senator from Arizona speaking:

It was the deliberate judgment of the Senate Committee on Rules and Administration, after careful study, that at the present time the rules of the Senate did not permit a cloture petition to be filed either upon a motion to approve or amend the Journal, or a motion to proceed to the consideration of a bill.

That is what the Senator from Arizona said. He was addressing himself to the then President pro tempore before he ruled.

If the Chair were to reverse that position, he would go directly contrary to the action taken by the Senate Committee on Rules and Administration which, to my mind, would be parliamentary highjacking, in which neither the Chair nor the Senate should indulge.

Mr. President, that shows the views of the Committee on Rules and Administration which is charged with the primary responsibility in this case.

Mr. President, it is, of course, unnecessary for me to argue with legislators of long experience and great familiarity with the rules as to the value of precedents in the Senate of the United States. There are in the manual approximately 40 written rules. There are several hundred precedents which guide us in our deliberations. Those precedents have as much weight, they have the same authority, they have the same importance attached to them, as have the written rules of the Senate. I shall illustrate that by the statement made by our distinguished Presiding Officer on the day on which this matter was submitted to the Senate. He said:

If a Senator yield for any purpose other than to be asked a question, he would lose the floor.

We may study these rules from cover to cover, and we shall find no such rule as that. That is a precedent which has grown up in the Senate, which is just as valid, but no more valid, as the precedent that a cloture petition will not lie to a motion to consider a bill. It is just as sacred, but not a bit more sanctified than the present existing precedent. It is a rule of the Senate, until changed by action of the Senate, that a cloture petition will not lie to a motion to proceed to the consideration of a bill.

The Chair further stated to the Members of the Senate:

The Senator having the floor cannot yield for the purpose of allowing some other Senator to make a point of no quorum and having a roll call without losing the floor.

Senators may read the Senate rules, but they will find no such written rule. That is a precedent handed down to us and invoked, after its establishment, by Presiding Officers, just as I am earnestly imploring and expecting the present Presiding Officer to apply the precedent which has been established in the Senate for years past, by holding that this cloture petition does not apply to the motion to proceed to the consideration of Senate Resolution 15.

Mr. President, the matter of precedents, as I say, is familiar to the Vice President, and more familiar to him than it is to the Senator from Georgia. The Vice President is the constitutional President of the Senate. He is not a Senator. We regretted that the distinguished Senator from Kentucky was translated to the chair, because we lost him as a Senator; but, of course, that regret was tempered and cleansed away by our delight that he would still be with us as our Presiding Officer.

Of course, it is the function of the Presiding Officer to follow the precedents which have been established in this body, just as it is the duty of a judge to apply the law as he finds it, without regard to the opinion of the individual sitting on the bench as to what the law should be.

Mr. President, I could read statements from all the great parliamentarians of the past, from Thomas Jefferson on down through Hopkins of Virginia, Speaker Henderson, Speaker Gillette, Senator William H. Evarts, who was a great Senator, regarding the dangers which always ensue when short cuts are undertaken to be made, and their conclusions that precedents are as much rules of this body as is any rule written in the Senate Manual. Those rules and those precedents are the safeguards of order in the Senate, just as the law of the land is a safeguard of order in our States. We are all bound by them until they are changed in the manner prescribed by the rules themselves. Any other course would cause chaos and confusion in this body, and no Senator would have any assurance or any idea of what his rights might be upon the floor.

By the express wording of rule XXII it is crystal clear that it differentiates between a mere motion, as is the case here, and a pending measure.

Mr. President, I submit the point of order and invoke the Chair's favorable ruling.

Mr. SALTONSTALL. Mr. President, I wish most respectfully to argue very briefly to the Presiding Officer that I believe the point of order is not well taken.

The motion of the senior Senator from Illinois to proceed to the consideration of Senate Resolution 15, a resolution amending the so-called cloture rule of the Senate, is the pending measure within the meaning of rule XXII. If it is not, what is it the Senate is now debating? It is stated on our calendar of business that the "pending business" is his motion. In this case I respectfully submit that the "pending business" is clearly the "pending measure" within the meaning of rule XXII.

It is significant to note, Mr. President, that prior to 1917, when rule XXII was amended to include a cloture petition, there had never been a filibuster conducted in the Senate on a motion to amend the Journal of the Senate or upon a motion to proceed to the consideration of a bill or resolve. I cite this because it helps us to understand why the framers of the amendment to the rule used the words "pending measure," and did not in the debate prior to the adoption of the rule discuss what they intended those two words to mean. It is equally clear, it seems to me, that they intended by this amendment to adopt a procedure that would, in effect, if properly followed, be a method for closing debate and permitting action by the Senate.

Your decision, Mr. President, on this point of order, makes the fifth time, if we include the three times that Vice President Dawes ruled on the same point as one time, that a ruling has been made as to whether or not a cloture petition is in order. The first ruling was made by Senator Cummins, in 1919, when he ruled that a cloture petition was not in order when reservations to a resolve to ratify a treaty was the question before the Senate. He ruled that the resolve was the "pending measure," and that the reservations were in effect amendments and, therefore, not the "pending measure."

In 1927 Vice President Dawes ruled that a cloture petition must apply to the measure under consideration when the cloture petition was filed, rather than the one that was being debated at the time when the cloture petition had to be voted upon under the rules.

In 1946 the Senator from Tennessee [Mr. MCKELLAR] President pro tempore, ruled that cloture was not in order on a motion to amend the Journal of the previous session. He ruled that "Senate bill 101, the FEPC bill, while technically unfinished business had been temporarily superseded by a highly privileged matter which must be proceeded with under the rules until disposed of."

In 1948 the Senator from Michigan [Mr. VANDENBERG], President pro tempore, ruled that cloture was not in order on a motion to take up an anti-poll-tax bill when the pending measure in the Senate was a bill to provide for the development of civilian transport aircraft. The latter, in his opinion, was the "pending measure," under rule XXII. In each of these cases, therefore, the Presiding Officer had to decide what was the "pending measure."

In the present instance there is nothing pending before the Senate except the motion to take up Senate Resolution 15. This is certainly not a privileged motion within the meaning of an amendment to the Journal under rule III or under rule VI, regarding presentation of credentials of a Senator.

Our distinguished colleague, the junior Senator from California [Mr. KNOWLAND], recently quoted the definition of the word "measure" from Webster's New International Dictionary:

A step or definite part of a progressive course or policy; a means to an end.

How can it properly be argued, Mr. President, under the existing circumstances, where there is no other motion or amendment or other unfinished business pending before the Senate, that the motion of the Senator from Illinois "to proceed to the consideration of Senate Resolution 15" is not a measure within the meaning of the definition of that word? I quote the definition again. "Measure" is "a step or definite part of a progressive course or policy; a means to an end."

The Senate is a deliberative body. It is a legislative body. Its rules have been established to effect its orderly procedure. Its problems are principally those of legislation. Its deliberations must come to an end in each instance if legislative action is to follow. Again I turn to Webster's Dictionary for the definition of the word "deliberation." It is defined as—

A discussion and consideration by a number of persons of the reasons for and against a measure.

The present rule XXII was adopted in 1917 after there had been a failure of action because of lengthy debate by a small minority of the membership. The words "pending measure" were not interpreted in the debate at the time of adoption of the rule. But, I respectfully submit, Mr. President, a careful reading of those debates will give you, as it gave me, the feeling that the authors of the amendment to the rules believed that they were making it possible for the Senate to end its deliberations and come to a vote on any question the Senate might be deliberating when two-thirds of its membership believed that the time had come for action.

It was not until 1922 that the astuteness of one Member of the Senate discovered a method of avoiding a cloture petition, by depending upon the high priority given to an amendment to the Journal of the previous session. In short, through that means a method was found of destroying the effectiveness of a cloture petition. I submit that it becomes our responsibility to attempt to see that the language in such an important rule is made crystal clear, to use the words of our great colleague from Michigan, so that the rule cannot be open to different interpretations by different Presiding Officers. That was the sole purpose of those of us who previously filed this resolve and who now support its adoption.

A further reason has appealed to me, Mr. President, the more I have studied the rules. The more thought I have given to the whole subject of any change in the rules, it has become increasingly clear to me that the only possible way in which the rules can be changed, if the attempt to change is filibustered, is through the method which is now being pursued. Unless you rule, Mr. President, that cloture is in order on the present motion, I do not believe the present rule XXII will ever be changed at any time in any way, if there is the will to resist. The present resolve or one similar simply cannot be brought before the Senate to be voted up or down unless the opponents yield.

I say again that there is no other matter at this time pending before the Senate to which a finger can be pointed as a "pending measure" as a finger was pointed in each of the other rulings by prior Presiding Officers. I say again, Mr. President, that I believe a proper grammatical construction of the words "pending measure" requires you to rule that this motion is the "pending measure" that leads to legislative action on this resolve.

I repeat, Mr. President, this question is a new one. You are, therefore, not bound by the precedents of the rulings of prior Presiding Officers. You have them, however, as a background on which to reach your decision. In this instance, where there is no other business pending, I believe that the authors of the present rule XXII intended such a motion to be included within the matters that could be subject to cloture; otherwise, there is no possible way in which to bring a bill or resolve before the Senate for deliberation and action.

For these reasons, therefore, I respectfully submit that you should hold this cloture petition properly filed, and the point of order therefore not well taken.

Mr. LUCAS. Mr. President, I respectfully request that the distinguished Presiding Officer of the Senate permit me to make a few observations on what seems to me to be an extremely important question from the standpoint of parliamentary law.

The VICE PRESIDENT. The Chair will hear the Senator from Illinois.

Mr. LUCAS. In the first place, I wish to associate myself with all the remarks the distinguished Senator from Massachusetts [Mr. SALTONSTALL] has made with respect to the point of order. While I have great affection for the junior Senator from Georgia [Mr. RUSSELL], and high regard for his ability, I cannot agree with him either in his premises or his conclusions with respect to the point of order. I respectfully submit that there are no precedents which control this case, and that all the precedents cited by the Senator from Georgia have no application whatsoever to the pending question.

The ruling which the Chair is now called on to make on the point of order against the cloture petition will be one of the most significant rulings ever made in the history of the Senate by its Presiding Officer, because the point of order raises for the first time the question whether a cloture petition is proper when it is filed while no other business, except the matter on which cloture is sought, is pending before the Senate. This is the first time in the history of the United States Senate, through all the years when petitions for cloture have been filed, and when rulings have been made by the Chair upon various parliamentary points, that the Chair has ever been called upon for a ruling upon a set of facts similar to those now before the Senate of the United States.

Many Senators, of course, have in mind the ruling which was made on August 2, 1948, by the senior Senator from Michigan [Mr. VANDENBERG]. I undertake to say that the precedent then established does not affect the question presented by the petition now on the Vice President's desk. Those who have studied the scholarly opinion of the senior Senator from Michigan will understand why this is so. Let me quote a few sentences from that opinion, which will make my position entirely and perfectly clear. This is what the then Presiding Officer said in the opinion handed down some 7 months ago:

What is the pending measure at this moment? The pending measure is Senate bill 2644, a bill to provide for the development of civil-transport aircraft adaptable for auxiliary military service, and for other purposes. What is the purpose of the motion made by the able Senator from Nebraska, to which it is now being attempted to attach cloture? It is to create a new pending measure.

So the Presiding Officer, the senior Senator from Michigan, said at that time. Yes, Mr. President, "to create a new 'pending measure.'"

That is exactly—

Said the Senator from Michigan—

the objective which the pending motion has in view. In the view of the Chair, in a reasonable interpretation of the English language, the Chair is unable to believe otherwise than that the "pending measure" at this moment in the forum of the Senate is Senate bill 2644.

That is the ruling, Mr. President, upon which certain Senators support the point of order, and it has no more to do with the present situation with respect to cloture than the precedent established in 1919 when the Versailles Treaty was under consideration.

Further quoting the Senator from Michigan, who was then the Presiding Officer:

It is not the motion of the Senator from Nebraska to proceed to the consideration of House bill 29.

Mr. President, if that was not important in making up the mind of the distinguished Senator from Michigan, why did he draw that issue into his opinion? Of course, that was the basis for the opinion, and no one can read his opinion and arrive at any other honest interpretation. While the senior Senator from Michigan did insert some obiter dictum into his opinion, as a judge fre-

quently does, and told the Senate that it has no effective cloture rule at the present time, nevertheless there is the basis and the substance, in my judgment, of the position the Presiding Officer finally reached upon that occasion.

Mr. President, the present occupant of the chair is not confronted with the situation presented to the Presiding Officer last year. There is no bill, resolution, motion, or any other parliamentary matter before the Senate, except the motion to proceed to the consideration of Senate Resolution 15. We are, therefore, writing on a clean slate. If the Chair should now rule that the cloture petition is in order, he would not be doing any violence whatsoever to the ruling made by the Presiding Officer last year. Nor would he do any violence to any ruling by any earlier Presiding Officer even among all the rulings the junior Senator from Georgia quoted in his remarks upon the point of order.

Some Senators may also recall the ruling made by the distinguished Senator from Tennessee [Mr. McKELLAR] in February 1946 when he ruled that a cloture petition was not in order while the Journal of the preceding legislative day was under consideration. Obviously, we are not confronted with that situation. We have disposed of the Journal. It is not before us for approval. It does not bar the present cloture petition.

But, Mr. President, my argument does not rest on the negative ground of distinguishing this case from the earlier precedents. It rests entirely on the proposition that rule XXII was meant to be, and indeed must be, construed to be an effective device for closing debate in the Senate of the United States.

I undertake to say that no reasonable man who has read the debate which took place when rule XXII was adopted can have any doubt that the Senate was laying down for itself an effective cloture rule, and not providing a rule which could be evaded and frustrated by exceptions and reservations and loopholes.

Can anyone believe that the great men in the Senate of the United States at that time, probably the greatest collective group of Senators ever to sit in this body, did not know what they were doing in adopting a cloture rule? If the ruling of the Senator from Michigan is correct, they adopted a completely worthless rule. I cannot believe that we, some 32 years later, know better what they were attempting then to do than they knew themselves.

Senator La Follette, the elder, whom we all remember as one of the keenest minds in the history of the Senate, voted against the rule. He was one of the three Senators, as the Chair will recall, who voted against it. He said:

> So far as I am concerned, I will never by my voice or my vote consent to a rule which will put an end to the freedom of debate in the Senate.

That is the elder La Follette of Wisconsin talking. Do Senators think he did not know what was going on in the United States Senate at that time? Does anyone believe that old Bob La Follette, with his keen, philosophic, penetrating mind, did not know what he was doing when he made that statement, and did not believe that, if the rule were adopted, all debate would be cut off under that rule? Can anyone believe that Senator La Follette did not understand the meaning of the rule? Is it not perfectly clear that he opposed the rule because he thought it would put an end to successful filibustering in the United States Senate?

The debate on the adoption of the rule is full of statements which confirm this understanding. Not a word was said about the ineffectiveness of the rule against motions to proceed to the consideration of measures. Senators in debate specifically discussed not only bringing to a close debates on bills and resolutions, but on all discussion and the CONGRESSIONAL RECORD bears out that statement.

It does not behoove us, more than 30 years after the adoption of the rule, to say that the men who sat in the Senate in those days did not know what they were doing. Yet that is exactly what we are saying if we contend that the rule they adopted is useless to accomplish the purpose which they declared they had in mind.

Mr. President, everyone knows the position which you took on these questions when you occupied this chair as majority leader. You argued vigorously and eloquently in 1948, before the senior Senator from Michigan [Mr. VANDENBERG] made his ruling, and in 1946 before the senior Senator from Tennessee [Mr. McKELLAR] made his ruling.

Mr. President, you followed the admonition of St. Paul in his Epistle to the Corinthians, in which he said, "The letter killeth, but the spirit giveth life." We are following the letter rather than the spirit in this legalistic hairsplitting regarding the term "measure." Mr. President, this is no time in our history for legalistic hairsplitting. This is no time in the history of this Nation for a rigid interpretation. This is a time for the Presiding Officer to do exactly what he did a year ago, when he was a Senator, and to interpret the rule in the spirit that was intended by its framers back in 1917.

Mr. President, in my view the best presentation of the case for the propriety of the petition now pending before you was made in the language which you used last year when you occupied the position of minority leader of the Senate:

> I have not any doubt that when the Senate adopted the rule XXII, it intended to make it possible for the Senate to bring to a termination debate upon any matter before it. If it be true that a measure is a step, among other steps, and a progressive course to bring about the consummation of some action, certainly a motion would be a measure within that sense.

Mr. President, those were your words 1 year ago. That is the meat of the coconut, so far as I am concerned. I rest my case in behalf of myself and other Senators on both sides of the aisle who are greatly interested in seeing that this point of order is overruled, on the language which was used by the present Vice President when he was minority leader a year ago.

Mr. RUSSELL. Mr. President, will the Chair indulge me for about 3 minutes?

The VICE PRESIDENT. If the Senator from Illinois has concluded, the Chair recognizes the Senator from Georgia.

Mr. LUCAS. I had concluded, but I have a suggestion to make later.

Mr. RUSSELL. Mr. President, I must say that I regard the argument made by the Senator from Illinois in his attempt to establish the difference between a motion on one occasion and a motion on another occasion as about as labored a reasoning as I have heard in this body.

If I correctly understand the argument presented in the effort to induce the Chair to rule that a motion is a measure, if a motion is made to adjourn when there is a bill before the Senate, it is a motion; but if a motion to adjourn is made when there is no bill before the Senate, it is a measure. That is the nature of the argument which is made here today. In other words, if there is a motion to take a recess when there is a bill before the Senate, that is merely a motion; but if there is no bill before the Senate, then it becomes a measure, according to the arguments made by the Senator from Massachusetts [Mr. SALTONSTALL] and the distinguished Senator from Illinois [Mr. LUCAS].

Mr. President, of course a motion is a motion every day of the week, anywhere we find it; and we cannot make it a measure by attempting to say that because there is not some pending measure back of the motion to proceed, therefore the motion becomes a measure, but that if there were a measure back of the motion to proceed, the motion would still be a motion. I submit that that argument has no validity, and certainly is no reason for overturning the precedents in this case, which are overwhelming.

I was distressed by the argument made by the distinguished Senator from Illinois that this is a time of emergency, that we should not indulge in legislative hairsplitting, and should not pay attention to the precedents; that this is an emergency, and therefore we should go about our business, and the Chair should overturn the precedents and the Senate should sustain the Chair because there is an emergency.

The Chair knows better than I do, because of his longer service in this body, that that same argument will apply against any point of order which is made to sustain any Senator in any right which he possesses upon the floor. I say that the mere fact that men may be tired, and the majority leader is unable to work his will as rapidly as he may desire, is no reason for saying that we should not be legalistic, that we should have no hairsplitting, but because there is a desire to take up a measure, the Chair should rule and overturn the precedents, and, in the teeth of the express letter and wording of rule XXII, hold that a motion is a measure because there is no bill before the Senate at the present time.

I submit, with thanks to the Chair for his kindness in permitting me to make this statement, that there is no way to change a motion to a measure by sheer argument. It is either a motion at all times, or it is a measure at all times. Rule XXII clearly defines the difference between a motion and a measure. It provides that certain motions may be

made from time to time, and that the cloture rule shall apply only to the pending measure. That is clear evidence of the intent of those who framed the rule.

The Senator from Illinois challenges us as to whether or not the late Senator La Follette, of Wisconsin, knew what he was doing when he opposed this rule. The fact stands out from every word of that debate—and I have read every word of it—that the distinguished Senator La Follette, of Wisconsin, was opposed to cloture in any form, at any time. His statement cannot be used to throw any light upon the intention of those who framed this cloture rule to apply to a pending measure.

Under the precedents and under the rules, I submit that the Chair should sustain the point of order.

Mr. LUCAS. Mr. President, I presume that under the rules the Chair could have ruled immediately following the time when the point of order was made; but the Chair has been good enough to listen to these arguments, and I am sure that we all appreciate it. We hope that we have made some contribution toward helping the Chair make up his mind.

I rise to make a suggestion. I am not sure whether the Chair is ready to rule or not. I suggest that it might be possible for us to take a recess now until noon tomorrow, and that when the Senate reconvenes it be in order for the Chair at that time to make his decision on the point of order.

Mr. WHERRY. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. LUCAS. I yield.

The VICE PRESIDENT. The Senator will state it.

Mr. WHERRY. The cloture petition has now been filed. As I understand the rule, the cloture petition would be automatically voted upon at 1 o'clock on Saturday afternoon. Suppose the request is granted, and we recess until tomorrow noon. If after the ruling Senators should wish to debate the appeal, I ask the Chair whether the time set in the rule with respect to the cloture petition would automatically expire at 1 o'clock on Saturday. Is it the opinion of the Chair that Senators desiring to make speeches on the appeal might be permitted to do so? Would they be automatically cut off, and would the debate be terminated at 1 o'clock on Saturday afternoon?

The VICE PRESIDENT. That inquiry presents a serious question, as to whether debate on the appeal, if one is taken, should extend beyond the hour fixed in the rule for a vote, or whether debate on the appeal would be cut off. It would depend to some extent on whether a motion to lay the appeal on the table were made in the meantime; but the Chair has consulted the Parliamentarian about that question, because it occurred to the Chair that it might arise. Although the Chair is not finally passing on that inquiry, he is inclined to the opinion, based upon his consultation, that even if the debate should go beyond the 1 o'clock period on Saturday or 1 hour after the Senate convened, and if the decision of the Chair—whichever way it goes—should be sustained or overruled, so that the Senate would pass on the question of the application of the petition to the present motion, the vote would then take place immediately upon the conclusion of that matter, even if it were beyond 1 o'clock on Saturday.

Mr. WHERRY. In other words, if the debate continued on the appeal, when the Senator who was then speaking finished his argument, the cloture petition would become effective, and automatically the vote would be had on the petition?

The VICE PRESIDENT. Of course, it would depend on how the Senate voted on a possible appeal. But the Chair has in mind what the Senator from Nebraska has in his mind.

Mr. WHERRY. Yes.

The VICE PRESIDENT. In other words, that the Senate will not deprive itself of the right to vote on the cloture petition——

Mr. WHERRY. That is right.

The VICE PRESIDENT. If the Senate, either by upholding or overruling the Chair, should decide that the petition is fileable at this time.

Mr. RUSSELL. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Georgia will state it.

Mr. RUSSELL. I understand, then, that the Chair expects to rule, if we should ever reach that stage of the proceedings, that the filing of the petition would be considered as not nunc pro tunc from the time when it was offered, but that the Chair would hold that it would be permissible to extend the vote on the petition.

The VICE PRESIDENT. The Chair is not finally ruling; but the Chair is giving the view which he at the moment entertains, after consultation with the Parliamentarian of the Senate.

But of course the Chair is subject to advice before that situation arises, if it does arise.

Mr. RUSSELL. If the Chair sustained the point of order, that question would not arise.

The VICE PRESIDENT. The proceedings under the rule would probably be stayed until that period had been reached.

Mr. SALTONSTALL. Mr. President, will the Senator from Illinois yield to permit me to propound a parliamentary inquiry?

Mr. LUCAS. I yield.

Mr. SALTONSTALL. Mr. President, my parliamentary inquiry is this: Will the proper time for making the point of order on the question raised by the parliamentary inquiry of the Senator from Nebraska come, let us say, at 1 o'clock on Saturday, if that is the time when the cloture petition would otherwise be in order to be voted upon?

The VICE PRESIDENT. It is difficult to decide regarding a point of order which has not been raised, and which may not be raised; it is also rather difficult to pass on the question of when the point of order suggested by the question of the Senator from Nebraska might be raised so that the Chair could pass on it as it might arise under the situation which might then exist.

Mr. SALTONSTALL. My point is that it could not arise until 1 o'clock on Saturday; could it?

The VICE PRESIDENT. Probably not. If all the proceedings should be consummated before 1 o'clock on Saturday and if a decision should be arrived at, either by the Chair or by the Senate, that this petition could be filed, then the vote would take place.

Mr. RUSSELL. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Georgia will state it.

Mr. RUSSELL. Is it not true that in no event could there be a vote on the alleged cloture petition until the Senate and the Chair had taken final action on the parliamentary situation which is now before the Chair and the Senate?

The VICE PRESIDENT. The Chair thinks that is true.

Mr. LUCAS. Mr. President, before I make a motion for a recess, I am willing to abide by the wishes of the Chair as to whether he wishes to rule at this time.

The VICE PRESIDENT. The Chair is willing to rule now.

SEVERAL SENATORS. Rule! Rule!

The VICE PRESIDENT. It might be some accommodation to the Chair to have time overnight to study the arguments on the point of order, but if the Senate insists on having the Chair rule at this time, the Chair is willing to do so.

SEVERAL SENATORS. Rule! Rule!

The VICE PRESIDENT. The Chair will rule now, if that is the wish of the Senate, unless the Senator from Illinois wishes to make a motion for a recess.

Mr. LUCAS. Mr. President, I do not insist upon having the Chair rule at this time. I am willing to abide by the Chair's preference.

The VICE PRESIDENT. The Chair supposes that he might as well proceed to a ruling:

The Chair appreciates the importance of the question now before him; and because of its importance, the Chair will ask the Senate to indulge him in a discussion of the whole matter.

Many conflicting statements have been made. Even the Chair has been quoted on both sides of this point of order, tonight; and the Chair supposes that cancels his statements altogether. The Chair will not comment upon that. But there have been so many speculations, predictions, and comments, both in the Senate and in the press and otherwise, as to how the Chair would rule, that the Chair feels somewhat like the man who was being ridden out of town on a rail: Someone asked him how he liked it; and he said that if it were not for the honor of the thing, he would just as soon walk. [Laughter.]

There are two phases of this matter, as the Chair sees it. One is an effort to ascertain what the Senate intended when it adopted rule XXII; and the other is the application of the precedents or decisions which have heretofore been made in interpreting rule XXII. The Chair wishes to analyze those decisions to the best of his ability.

The first case which arose, following the adoption of the rule to which reference has been made, was in connection with the Treaty of Versailles, which was

before the Senate in 1919. It had been made the unfinished business by a vote of the Senate, and was the pending measure. During its pendency and the discussion upon it, various amendments and reservations were offered to the resolution of ratification; and debate upon them proceeded for some length of time.

Senator Hitchcock, of Nebraska, who was in charge of the treaty, filed a petition for cloture, not on the treaty itself, but on the reservations and amendments to the resolution of ratification of the treaty. The Chair held—and the Senate sustained the Chair in the ruling—that cloture did not lie on the amendments or the reservations to the treaty. What the Chair would have ruled if the petition for cloture had been filed on the treaty itself, the Chair cannot now speculate.

But if the petition had been filed on the treaty itself, and had been adopted by the two-thirds vote required under the rule, that would automatically have limited or closed debate on the amendments and reservations, because, under the terms of the rule itself, when a cloture petition is filed and is adopted by the Senate on the main pending measure, it applies to all amendments which have been presented up to that time.

So the ruling of the Chair and the action of the Senate, in holding that a cloture petition could not be filed as to an amendment to a measure which was the main measure pending before the Senate, do not, it seems to the Chair, have any application to the pending motion offered by the Senator from Illinois [Mr. LUCAS].

Passing for the moment the rulings of Vice President Dawes in 1927—which likewise, it seems to the Chair, have no relation to this matter, because there was a pending measure before the Senate, and the cloture petition seems to have been filed on a measure which was being debated, instead of the one which was actually the pending measure and the unfinished business—we come to the next precedent to which reference has been made, and which has been relied upon—namely, the ruling made by the distinguished Senator from Tennessee [Mr. MCKELLAR] as President pro tempore of the Senate in 1946. In that case the Senate had, by affirmative action, made Senate bill 101 the unfinished business of the Senate. It was known as the FEPC bill, in charge of the Senator from New Mexico [Mr. CHAVEZ]. While that measure was pending and under discussion, an adjournment was taken, which brought about the morning hour. The question of amending the Journal was raised. Strange to say, the rule does not require the approval of the Journal. The Chair has been under a different impression. We have from time immemorial by habit secured an approval of the Journal; but the rule itself says nothing about the approval of the Journal, but provides for its being read for amendments and corrections.

The Journal was under discussion, on a motion to amend it, and while that was in progress, a petition for cloture was filed on Senate bill 101, which had been made the unfinished business. It had been the pending measure. The Senator from Tennessee, acting as President pro tempore of the Senate, held that the motion to amend the Journal displaced Senate bill 101 as the pending measure, and that, inasmuch as the cloture petition had been filed on Senate bill 101, which at least for the time being had ceased to be the pending measure, it was not receivable and could not be filed, because it was presented at a time when a motion to amend the Journal was under discussion, which temporarily at least had suspended the status of Senate bill 101 as the pending measure.

Therefore, in effect, the Senator from Tennessee, as President pro tempore, was not required to pass on the question whether a cloture motion would be applicable to a motion to amend the Journal, because it was not so filed. It was filed for the purpose of bringing about the closing of debate on Senate bill 101, which the Senator from Tennessee held was not the pending measure at the time the cloture motion was filed. Therefore, in the opinion of the Chair, that ruling does not apply to the present situation.

We come now to the decision made in 1948 by the distinguished Senator from Michigan [Mr. VANDENBERG]. The Chair was happy the other day to see the distinguished Senator from Michigan quoted in the press as having said this was not a contest of popularity between the Senator from Michigan and the present occupant of the Chair. The present occupant of the Chair is very happy to feel that that is true; because if it were the question, the Chair would be foredoomed to defeat on that proposition in a contest with the Senator from Michigan. The Chair is sure the Senator from Michigan and all other Senators know there is no Senator here, nor has there been one since I have been in the Senate, for whom I have a more affectionate regard, and for whose opinions I have more profound respect than I have for his.

The pending measure at that time was Senate bill 2644, which was under the sponsorship and in control of the Senator from Maine [Mr. BREWSTER], providing for the development of civil-transport aircraft adaptable for auxiliary military service. That bill was the unfinished business and the pending measure at the time the Senator from Nebraska [Mr. WHERRY] moved that the Senate proceed to consider House bill 29, the anti-poll-tax bill passed by the House, which had been reported by the Senate committee and which was on the calendar. That motion was in order. If it had been voted on and had been successful, it would have displaced Senate bill 2644, because a motion to proceed to the consideration of another bill while a bill is under consideration as the unfinished business and the pending measure, if successful, displaces the original bill and puts it back on the calendar. That is what the Chair had in mind when this debate began, in his probably rather presumptuous effort to advise the Senate in regard to some of the rules in regard to the procedure. But a mere motion to take up one bill cannot be amended by a motion to proceed to the consideration of another bill. Such a motion is not in order. The motion to take up the first bill would have to be defeated before a motion could be made to consider another bill. In other words, a motion to take up Senate bill 46, for instance, cannot be substituted for a motion to take up Senate bill 92. The motion to take up bill 92 must be defeated, and then a motion made to take up bill 46, if that is what is desired.

So when the Senator from Nebraska made his motion to proceed to the consideration of House bill 29, which was an anti-poll-tax bill, in lieu of Senate bill 2644, which was the pending measure, a point of order was made. After some debate a petition for cloture was filed, on the motion of the Senator from Nebraska. A point of order was made by the Senator from Georgia. It was debated. I think it is fair to assume the point of order of the Senator from Georgia was based upon his belief and conviction that a petition for cloture would not lie in regard to a motion to proceed to the consideration of a bill. The point of order was debated. The present occupant of the chair, as Senator, took part in the debate. That is one reason why the Chair has felt it a duty to himself and to the Senate to go as deeply as possible into this whole question, so that he would not be prejudiced or even influenced by that action, and the position which he took as a Senator on the floor, although the Chair recognizes that when a Senator later becomes the Presiding Officer, the situation is not precisely comparable to that of a lawyer in court employed by a private client to prosecute or defend a lawsuit, who later goes on the bench to decide cases that might involve the same problem.

After debate, the then Presiding Officer, the distinguished Senator from Michigan, ruled that the pending measure was not the motion of the Senator from Nebraska to proceed to the consideration of House bill 29, but that the pending measure was Senate bill 2644, the aviation bill. Having decided that the aviation bill was the pending measure and that the motion of the Senator from Nebraska was not the pending measure, the Senator from Michigan might have rested his decision on that point alone, because, if, by that decision, the motion of the Senator from Nebraska was in a sense, as we say, thrown out of court, it followed almost automatically that a cloture petition could not lie upon that motion. But, inasmuch as the Senator from Georgia had made his point of order on the ground that the motion itself was not in order, and that any motion to proceed to the consideration of a bill or resolution could not be construed as the pending measure in the sense that a petition for cloture would lie, the Senator from Michigan no doubt felt an obligation to comment on the situation and to rule on it, in a fashion. I mean by that, having made the other decision, although I doubt if the Senator from Michigan who was presiding at that time intended it so, it might be classified as obiter dictum, as lawyers and judges say when a judge renders a decision which makes unnecessary a declaration or observation in the decision of the matter before him.

Be that as it may, in view of the fact that the Chair ruled that the pending measure at that time was Senate bill 2644, upon which no petition for cloture had been filed, therefore the motion of the Senator from Nebraska was not the pending measure, although the Chair ruled upon the point of order made by the Senator from Georgia.

The Chair is of the opinion that that situation and its complications are not applicable to the question which is now presented to the Chair, so that the Chair does not feel that previous decisions, based upon a different state of facts and a different legislative situation in the Senate, are binding upon the Chair at this time in passing upon a simple question as to whether a motion, a stark, uncomplicated motion, with nothing else pending before the Senate, is the subject of a cloture petition.

In order to reach a reasonable conclusion on that point the Chair has read and re-read the debates which took place at the time the rule was adopted; and as the distinguished Senator from Michigan said, in his comments on August 2, last year:

> The question is not new before the Senate, because it has been under discussion ever since the Senate was organized in 1789. Various efforts have been made to bring about the closing of debate, but not until 1917 was any formal rule adopted providing for cloture such as that which is in rule XXII.

The Chair not only has read the debates which took place at that time, but has also tried to get some help from law dictionaries, decisions of courts, and from all kinds of sources that might shed some light upon what the Senate meant or thought it meant when it used the phrase "pending measure." It has long been the practice of courts, in undertaking to interpret statutes, not only to look at the wording of a statute, but, if there be any ambiguity or uncertainty, to resort to the debates in the Congress or in the legislature or to the reports of committees on the legislation passed, in an effort to divine the intention of the legislative body in passing the act.

The Chair was unable to find very many decisions—in fact, only one legal decision—defining the word "measure," and that was in a case in Arizona in which under the initiative and referendum, there had been submitted to the people to vote upon an act of the legislature or a proceeding of the legislature. The supreme court of that State held that under a constitution providing for initiative and referendum there had not been submitted a completed act upon which to vote, and they could not submit to the people a mere proceeding or anything less than a complete act upon which the people could vote.

The Chair has also undertaken to enlighten himself about what the Senate meant in 1917, by looking at all sorts of dictionaries, literary and legal. While they are not binding on the Chair, or on the Senate, they do shed some light upon what the Senate was trying to do in 1917. It is not necessary to quote those definitions, but the most reliable and, the Chair thinks, probably the one which sheds the most light upon the question, is the definition found in the Century Dictionary, which defines a measure as one of a number of progressive steps looking to a definite conclusion, looking to the accomplishment of a fixed end. Therefore, if that sort of definition should be applied here, it would undoubtedly apply to the word "measure" in the rule.

In the debates which have taken place and in the decisions of courts there seems no question that a court has the right to interpret a statute. It has a right to construe it as it may apply to situations within the intention of the legislature. Courts have even gone so far as to say that a court may so construe a statute as to make effective the meaning of the legislative body, even though the formal words used do not precisely match the situation with which it is seeking to deal. The Chair thinks that is a general rule of construction which lawyers and judges generally recognize.

Now, therefore, what was the Senate seeking to accomplish in 1917? The distinguished Senator Walsh, of Montana, who was one of the ablest lawyers who ever served in this body, made a very long speech in which he argued the question whether the Senate was a continuing body and whether its rules had to be changed every time a new Congress convened. That has no relationship to this matter, but the final conclusion to which he came was that, without regard to that question, the Senate had the right to adopt such rules as would enable it to transact its business. Senator Cummings, of Iowa, who was at that time a distinguished Senator and was later President pro tempore of the Senate, made an address in which he said that he had long been in favor of the closing of debate in the Senate, and had long been in favor of amending the rules so as to enable the Senate to transact its business. To the same effect were the statements of Senator Hoke Smith, of Georgia; Senator Vardaman, of Mississippi; and Senator Hardwick, of Georgia.

In his decision in 1946 the Senator from Tennessee [Mr. MCKELLAR] quoted a statement by Senator Underwood, of Alabama, in arguing a point of order, in which the Senator from Alabama said that the rule was intended to apply to a bill, a resolution, or any other parliamentary action that was before the Senate for its consideration.

While the question of a motion or any other ancillary proceeding prior to the making of a definite bill the unfinished business of the Senate was not mentioned, those who voted for the amendment of the rule indicated, as it appears to the Chair, at least, that what they were trying to do was to close debate on the process which may have been before them, which they construed as business, in order that they might transact that business. Those who voted against it—only 3, Senator Sherman, of Illinois; Senator La Follette, of Wisconsin; and Senator Gronna, of North Dakota—placed their opposition to the amendment of the rule on the ground that it undertook to limit debate, and they were unalterably opposed to the limitation of debate in the Senate. So, in his effort to find out what was in the mind of the Senate at the time, the Chair has reached the conclusion that what the Senate was trying to do, what it thought it was doing, what it intended to do, was to adopt a rule which would enable it to transact its business.

In order to nullify that intention, the Chair would feel that he must rule that the word "measure" or the words "pending measure" must be given the narrow, strained, and legalistic construction that they meant only a bill which had been made the unfinished business of the Senate, and therefore was the pending measure, and it undoubtedly would be a pending measure.

A motion to proceed to the consideration of a bill is an absolutely indispensable process in the enactment of legislation. It is just as indispensable in order that a law may become effective or be enacted by Congress as a vote on the bill itself when a final conclusion has been reached and the vote is taken. Without a motion to proceed to the consideration of a bill or resolution, the Senate cannot consider it, and therefore a motion to proceed is an indispensable step and a necessary part of the process taken by the Congress or any other legislative body in order that a bill may finally become a law.

The situation which exists here now is one which, in the Chair's opinion, has never presented itself before. This is the only time when an uncomplicated, bald, stark motion, without anything else on the calendar, without anything else pending before the Senate, has been presented. All the other situations to which reference has been made were complicated by some other matter that was pending at the time which the Chair has held constituted the pending measure.

The Chair is unwilling to believe and cannot believe that in 1917 the Senate did not know what it wanted, did not know where it was going, and did not know how to get it if it did know where it was going. The Senate at that time was composed of some of the most distinguished men in the history of the Senate. The Senator from Massachusetts, Mr. Lodge; the Senator from Iowa, Mr. Cummins; the Senator from Georgia, Mr. Hoke Smith; the Senator from Mississippi, Mr. John Sharp Williams, and his colleague Mr. Vardaman; and many other Senators whose names could be mentioned only to emphasize the fact that they were able and outstanding Senators, composed the Senate at that time.

The Chair is unwilling to believe, from the debates which ensued not only on the resolution proposing an amendment to the rules, but the debates which had taken place from time immemorial in the Senate, that the Senate as it was then made up was so incompetent, so lacking in its conception of the effect of its action either on a rule or on a bill, that the Members contemplated that under the rule which they adopted a situation would arise such as that which confronts the Senate now. If what is contended is to be the rule of the Senate, then the Senate can never reach a point where it can vote on an amendment to its own rules, if there is a determined

effort made to prevent the Senate from ever reaching that point.

The Chair cannot believe that the Senate in debating this rule intended to freeze its own rules in perpetuity, so that it could never vote to change them so long as there was a determined group of Senators opposed to any change, who were willing to prevent the Senate from even considering a change in the rules except by unanimous consent, and it would almost amount to that.

Therefore it is the opinion of the Chair, without going into any further detail, that the precedents which have been cited do not apply to the present situation; that the Senate, when it adopted the rule, intended to make it possible for a cloture petition to be filed in order that it might transact its business, and certainly the motion under discussion is business, because if it were adopted, under the rules of the Senate in regard to quorum calls, it would be the transaction of such business as would justify another call after it had been voted upon.

Therefore, in view of the obvious intention of the Senate in 1917, as the Chair sees it, to close debate, as Senator Underwood said, on a bill, resolution, or any other parliamentary action that was before the Senate, and in view of the fact that the precedents which have been relied on do not in the opinion of the Chair apply to the present situation, the Chair cannot do otherwise than overrule the point of order, which he does.

Mr. RUSSELL. Mr. President, I appeal from the decision of the Chair.

The VICE PRESIDENT. The Senator from Georgia appeals from the decision of the Chair. The question is, Shall the ruling of the Chair stand as the judgment of the Senate?

RECESS

Mr. LUCAS. Mr. President, I move that the Senate stand in recess until tomorrow at 12 o'clock noon.

The motion was agreed to; and (at 8 o'clock and 7 minutes p. m.) the Senate took a recess until tomorrow, Friday, March 11, 1949, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 10 (legislative day of February 21), 1949:

UNITED STATES ADVISORY COMMISSION ON INFORMATION

The following-named persons to be members of the United States Advisory Commission on Information for the terms indicated, to which offices they were appointed during the recess of the Senate:

Mark Foster Ethridge, of Kentucky, for a term expiring January 27, 1951.

Mark A. May, of Connecticut, for a term expiring January 27, 1950.

Justin Miller, of California, for a term expiring January 27, 1950.

Philip D. Reed, of New York, for a term expiring January 27, 1949.

Erwin D. Canham, of Massachusetts, for a term expiring January 27, 1949.

The following-named persons to be members of the United States Advisory Commission on Information for terms of 3 years expiring January 27, 1952, and until their successors have been appointed and qualified (reappointments):

Philip D. Reed, of New York.

Erwin D. Canham, of Massachusetts.

COMMISSIONER OF INDIAN AFFAIRS

John R. Nichols, of New Mexico, to be Commissioner of Indian Affairs, vice William A. Brophy, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 10 (legislative day of February 21), 1949:

IN THE UNITED STATES ARMY

Maj. Gen. Herman Feldman, O5724, United States Army, for appointment as the Quartermaster General, United States Army.

APPOINTMENTS IN THE REGULAR ARMY OF THE UNITED STATES

The following-named officers for appointment in the Regular Army of the United States to the grades indicated under the provisions of title V of the Officer Personnel Act of 1947:

To be major general

Maj. Gen. Stanley Lonzo Scott, O4439.

To be brigadier generals

Brig. Gen. Albert Pierson, O11838.

Brig. Gen. Williston Birkhimer Palmer, O12246.

Brig. Gen. Robert Miller Montague, O12261.

Temporary appointment in the Army of the United States to the grades indicated under the provisions of section 515 of the Officer Personnel Act of 1947:

To be major generals

Brig. Gen. Vernon Edwin Prichard, O3882.

Brig. Gen. Francis Henry Lanahan, Jr., O12735.

Brig. Gen. Roy Charles Lemach Graham, O4971.

Brig. Gen. William Kelly Harrison, Jr., O5279.

Brig. Gen. George David Shea, O5465.

To be brigadier generals

Col. Frank Leo Howley, O299977.

Col. Edward Caswell Wallington, O3838.

Col. Kirke Brooks Lawton, O6805.

Col. Harry Reichelderfer, O7547.

Col. Emmett James Bean, O12381.

Col. Wesley Tate Guest, O14654.

NATIONAL GUARD OF THE UNITED STATES ARMY

The officers named herein for appointment in the National Guard of the United States of the Army of the United States under the provisions of section 38 of the National Defense Act, as amended:

To be major generals of the line

Maj. Gen. Ronald Cornelius Brock, to date from July 27, 1948.

Maj. Gen. Brendan Austin Burns, to date from October 25, 1948.

Maj. Gen. John Uberto Calkins, Jr., to date from April 27, 1948.

Maj. Gen. Karl Frederick Hausauer, to date from October 25, 1948.

Maj. Gen. Daniel Harrison Hudelson, to date from April 27, 1948.

Maj. Gen. Ralph Andrus Loveland, to date from July 27, 1948.

Maj. Gen. Alexander Gallatin Paxton, to date from July 27, 1948.

Maj. Gen. William Irwin Rose, to date from February 9, 1948.

Maj. Gen. Richard Smykal, to date from September 27, 1948.

Maj. Gen. Daniel Bursk Strickler, to date from July 27, 1948.

To be brigadier generals of the line

Brig. Gen. H. Miller Ainsworth, to date from September 27, 1948.

Brig. Gen. William Seiler Bailey, to date from February 5, 1948.

Brig. Gen. Frank B. DeLano, to date from April 28, 1948.

Brig. Gen. Alfred Halleck Doud, to date from October 26, 1948.

Brig. Gen. Homer Oliver Eaton, Jr., to date from April 28, 1948.

Brig. Gen. George Francis Ferry, to date from April 27, 1948.

Brig. Gen. William Murray Hamilton, to date from February 5, 1948.

Brig. Gen. Walter Jones Hanna, to date from July 28, 1948.

Brig. Gen. Thomas Linus Hoban, to date from October 25, 1948.

Brig. Gen. William Dolphas Jackson, to date from March 12, 1948.

Brig. Gen. Gordon Alexander MacDonald, to date from October 26, 1948.

Brig. Gen. Jesse Eschol McIntosh, to date from February 6, 1948.

Brig. Gen. Neil Robert McKay, to date from July 28, 1948.

Brig. Gen. John Webster Naylor, to date from April 28, 1948.

Brig. Gen. Carl Lawrence Phinney, to date from July 29, 1948.

Brig. Gen. Joseph Alsop Redding, to date from April 28, 1948.

Brig. Gen. Ralph Ferdinand Schirm, to date from July 29, 1948.

Brig. Gen. Patrick Elihu Seawright, to date from February 6, 1948.

Brig. Gen. Edward Devlin Sirois, to date from February 6, 1948.

Brig. Gen. Wint Smith, to date from June 8, 1948.

Brig. Gen. Paul Edward Warfield, to date from October 26, 1948.

Brig. Gen. Edward Otto Wolf, to date from September 8, 1948.

Brig. Gen. Warren Claypool Wood, to date from June 11, 1948.

To be major generals, Adjutant General's Department

Maj. Gen. William Henry Harrison, Jr., to date from March 5, 1948.

Maj. Gen. Curtis Dion O'Sullivan, to date from February 4, 1948.

To be brigadier generals, Adjutant General's Department

Brig. Gen. Murdock Alexander Campbell, to date from October 26, 1948.

Brig. Gen. George Milton Carter, to date from October 26, 1948.

Brig. Gen. Raymond Frederick Hufft, to date from November 1, 1948.

Brig. Gen. Richard King Mellon, to date from April 27, 1948.

Brig. Gen. George Clifford Moran, to date from July 28, 1948.

Brig. Gen. Frederick Gates Reincke, to date from July 28, 1948.

OFFICERS' RESERVE CORPS OF THE ARMY OF THE UNITED STATES

The officers named herein for appointment in the Officers' Reserve Corps of the Army of the United States under the provisions of section 37 of the National Defense Act as amended:

To be major generals

Brig. Gen. James Bell Cress.

Brig. Gen. Hanford MacNider.

Brig. Gen. Robert Wilbar Wilson.

To be brigadier generals

Brig. Gen. William Andros Barron, Jr.

Brig. Gen. Wallace Harry Graham.

Brig. Gen. Telford Taylor.

Brig. Gen. Thomas Edison Troland.

Brig. Gen. Courtney Whitney.

Col. Frank Brown Berry.

Col. Robert Hunter Clarkson.

Col. Clyde Emerson Dougherty.

Col. John Bettes Dunlap.

Col. James Calvin Frank.

Col. Charles Lyn Fox.

Col. Thomas Rodman Goethals.

Col. Harold Leroy Goss.

Col. Robert Dinwiddie Groves.
Col. William Rodes Jesse.
Col. Henry Kirksey Kellogg.
Col. Richard Leeson McNelly.
Col. Henry Carlton Newton.
Col. Francis J. Reichmann.
Col. James Thomas Roberts.
Col. Carl Ferdinand Steinhoff.
Col. Arthur Elsworth Stoddard.
Col. Carl Thomas Sutherland.
Col. Frederick Marshall Warren.
Col. Richard Seabury Whitcomb.
Lt. Col. Clement Bates Ellery Harts.

UNITED STATES AIR FORCE

The following-named persons for appointment in the United States Air Force in the grade indicated, with dates of rank to be determined by the Secretary of the Air Force, under the provisions of section 506, Public Law 381, Eightieth Congress (Officer Personnel Act of 1947):

To be second lieutenants

Milton I. Aalen
Grey L. Adams
James R. Adams
James D. Alexander
Theofelos A. Aliapoulios
Fred C. Allen
Herman D. Allshouse
George B. Ashby
Roy E. Bach
Linford B. Bachtell
David J. Baer
Richard M. Bagley
George F. Barker
Glen E. Barrington
George W. Beale
Vaughn L. R. Beals, Jr.
John C. Beeley
Rowland H. Bemis
John J. Berky
LeRoy W. Berry
William J. Besaw
Rufus L. Billups
Tommy F. Blackstone
Sylvester F. Blakely
Rudolph Bonapace
Harold K. Boyd
Lester T. Brannon, Jr.
Joseph S. Breeden
Jerome G. Bricker
Frederick A. Bristol, Jr.
John E. Brooke
Earl C. Brown
John D. Brown (Reserve Officers' Training Corps)
John D. Brown (aviation cadet)
Marvin L. Brown
Robert R. Buckley, Jr.
Lawrence K. Bulen
Marshall E. Burbank
David D. Bush
Irwin C. Cairns, Jr.
William G. Cameron
Matthew J. Campanella
Lucian C. Cantin
Avril B. Carter
Robert F. Chadeayne
William R. Chapin
William I. Chenault
John E. Chrisinger
Carl E. Christenson
Gilvin L. Claypool
Douglas R. Clifford
David B. Cloud
Robert E. Clyburn
Joseph W. Cohen
W. Frank Cole, Jr.
Mitchell E. Coleman
James D. Collums
Malcolm K. Condie
James E. Conlon
Clyde A. Cook
Randolph D. Cook
Arthur Cooper
Kenneth J. Costa
Harris E. Coutchie
John R. Crane
John S. Croswell, Jr.
Joe W. Cunningham
James A. Cushman
Jacques C. Dastillung
Robert A. Davidson
Harold A. Davis
Kenneth E. Davison
Thomas J. Devanny
Douglas C. Dowell
Earloyde Edmonson
Clinton W. Effinger III
Raymond Elliott
James T. Ellis
Morley L. Emery
Ferd B. English, Jr.
Paul J. English
Howard A. Hagen
Howard F. Hamill
Darwin R. Hamilton
Richard J. Hamilton
Robert L. Hamilton
Lloyd G. Hamlett
Victor W. Hammond
John I. Hammonds, Jr
George E. Hansen
Richard O. Hansen
Byne D. Harris
Thomas R. Harrison
Don M. Hartung
James E. Harvey
Robert A. Haun
Robert W. Hazlett
James G. Henry
Paul J. Hesketh, Jr.
Edward A. Hinkle
Robert C. Hinrichs
Richard H. Hittle
Gerald J. Hogenmiller
Walter A. Hogge, Jr.
Francis X Holbrook
Paul J. Holgren
Clarence W. Holloway
Arley R. Hombaker
Robert M. Horsky
Albert F. Howell
Virgil R. Huddleston
Bennett W. James
Robert D. Erickson
Francis P. Farrell
Kenneth W. F. Feltham
William P. Fey
Milo H. Fields
Edward F. Fisher
Charles M. Forbes
Dean W. Forbes
David L. Fort
Karl W. Forward
Thomas L. Foster
James E. Francy
Bobby G. Franklin
James D. Freeman
Robert E. Fullerton
Tom L. Gabbard
William H. Gallup, Jr.
James W. Geiger
John L. Gerwig
Kay G. Glenn
Jack D. Gooding
Robert A. Gray
James F. Green
Philip D. Greenwood
Robert E. Gross
David F. Guess
George C. James
Jake Jenkins
Evan L. Jensen
Gordon I. Jensen
Harold M. Jensen
Prentice E. Jones
Robert B. Jones
Robert C. Jones
Walter G. Jones
Robin A. Julien
Wilbur C. Kaiser
Eugene C. Karr
Alfred R. Kattar
Willis G. Kearl
David K. Keeler
Richard C. Keller
Howard F. Kempsell
Larry M. Killpack
William H. King
William M. King
James W. Kirk
Gilford W. Koopmann
Victor H. Kupferer
Robert J. Lacey
Robert H. Laier
Harry W. Lambe
Maximilian Lamont
Leonard C. Langdon, Jr.
Robert L. Larsh, Jr.
Robert W. Lauer
Norbert D. LaVally
Lawrence L. Lavanier
John H. Lawson
James E. Ledlie
Elmer K. Lile
Allen J. R. Longstreet
George A. Lowes
Robert T. Lowrance
William T. Luke
James V. Lukey
Benjamin C. Luna, Jr.
Richard J. Lyman
Paul R. Maguire
Samuel Mansbach
Lester P. Martin, Jr.
Richard L. Martin
Charles M. Mason, Jr.
Robert F. Maxwell
Bobby H. McAlister
Charles R. McAllister
Robert M. McAllister
Jerome M. McCarville
John C. McClure
Murray M. McColloch
Chester E. McCollough, Jr.
Clayton L. McDowell
William J. McElroy III
Wilson A. McElveen, Jr.
Leon McGoogan
Cleon F. McGraw
William D. McMullen
Harold W. Meade
Wayne A. Melendrez
David K. Merrill
Joseph Meyer
Harold L. Meyers
Harris E. Miller
Joseph N. Miller, Jr.
Wallace G. Minich
Joseph R. Mitchell
Robert E. Mitchell, Jr.
Willard L. Mitchell
John K. Moberly
Leonard A. Mobley
Rufus M. Monts III
Bruce H. Moore
Harold W. Moore
Robert E. Morey
Harold J. Mosher
John M. Musterman
Gordon G. Neal
Franklin W. Neff
Howard O. Neff
Harold D. Nelson
William R. Nelson
Norton H. Nickerson
Melvin H. Nuechterlein
Clair H. Oberdier
Eric F. O'Briant
Daniel J. O'Brien
Thomas S. O'Brien
Edward W. O'Leary
Francis J. Oles
William A. Owings
John T. Palmer
Walter G. Palmer
William M. Palmer
Robert B. Parker
Benton K. Partin
Robert B. Patton
Thomas E. Pearsall
Robert C. Perdzock
Charles H. Perin
Gerald Perselay
Ralph T. Peterson, Jr.
Duane M. Phillips
Lowell G. Phillips
Richard L. Pierce
William E. Pilcher
Lew L. Pilkington
Edgar H. Pittman, Jr.
John W. Plantikow
John S. Quinn
Luther T. Quinn, Jr.
Carmen D. Ragonese
Merle R. Rauscher
Pat A. Restaino
Donald E. Rice
Charles R. Riley
Allen W. Ripley III
Charles R. Ritchie
William J. Ritts
Harry E. Roadman
J. Lee Robbins
George A. Roberts
Gerald B. Robertson
William E. Robins
Louis Robinson
Arthur R. Ross
Jack R. Rotzien
Berry W. Rowe
Gene V. Rowland
Grant C. Rowland
John A. Rubino, Jr.
John H. Rule
Joaquin A. Saavedra
Robert J. Sagwitz
James L. Sanders
James C. Scheuer
James D. Schneider
Robert J. Scott
Earl H. Seibert
Albert Shabaikowich
Elwood M. Shaulis
Robert J. Sheldon
Bernard L. Sherline
Guy J. Sherrill
Vernon P. Shockley
Alonzo M. Shoemaker, Jr.
Thomas D. Shortridge
Robert W. Slack
Edmund G. Smith
Glenn C. Smith
Richard B. Smith, Jr.
Robert C. Smith, Jr.
Ronald E. Smith
Billy J. Smoot
Earl F. Spencer, Jr.
Manning M. Stair
Adolph J. Stampfl
William R. Stapleton
Robert A. Stefanik
Kenneth L. Sterne
Billy E. Stewart
Laslie M. Stewart
Joseph E. Stockwell
William A. Suiter
Edward J. Sullivan
Roland H. Swartzlander
Robert E. Swett
Henry L. Swift
Luther A. Tarbox
Theodore K. Taylor
Willard D. Tease
Hagop H. Terzagian
Doyle Thigpen
Donald O. Thompson
Joseph C. Thompson
Richard W. Thompson
Stanwood Thompson
Lawrence E. Till
Archie W. Tucker
Donald B. Tuttle
Maurice O. Van Emon
Arthur C. Voudouris
Charles H. Wade, Jr.
Jack O. Wade
Arnold M. Walkow
Ernest C. Walley
Gerald L. Waterman
Ernest P. Watras
Robert L. Watson
Thomas M. Watson, Jr.
Richard A. Weil
Robert F. Wenger
James W. Wheat
Gene R. White
Gwynne W. White
Ralph W. White
John E. Wolter

IN THE NAVY

The following-named officers for temporary appointment to the grade of rear admiral in the line of the Navy:

Frank T. Watkins
Wallace R. Dowd
Tom B. Hill

The following-named officers for temporary appointment to the grade of rear admiral in the Medical Corps of the Navy:

Carl A. Broaddus
Joseph B. Logue

The following-named officers for temporary appointment to the grade of rear admiral in the Supply Corps of the Navy:

Frank C. Dunham
Stephen R. Edson

The following-named officers for temporary appointment to the grade of captain in the line of the Navy:

Stanley M. Alexander
William C. Butler, Jr.
Rex S. Caldwell
Marshall E. Dornin
Walter M. Foster
John J. Greytak
Frederick V. H. Hilles
Bruce D. Kelley
Herman N. Larson
Nicholas Lucker, Jr.
William B. Moore
Marvin C. Parr
Louis F. Teuscher
John L. Wilfong

The following-named officer for temporary appointment to the grade of captain in the line of the Naval Reserve:

Edward R. Anderson

APPOINTMENTS IN THE NAVY

Luther F. Duncan, to be an ensign in the Navy from the third day of June 1949, in lieu of ensign in the Navy as previously nominated and confirmed, to correct date of rank.

The following-named (civilian college graduates) to be ensigns in the Navy from the third day of June 1949:

John M. Andersen
Robert G. Anderson
Alex L. Baldwin
Joseph E. Bores
John P. Cooper
David E. Dearolph
James E. Feely, Jr.
Richard L. Gribling
Hughen G. Halliburton
Robert R. King, Jr.
Dale W. F. Krehmeyer
Bernard P. Kritzmacher
Lewis S. Lamoreaux
Oren A. Peterson
James K. Staud
Winston J. Taylor
James A. White
William DeW. Wingfield

Worthen A. Walls (civilian college graduate) to be a lieutenant (junior grade) in the Civil Engineer Corps of the Navy.

The following-named (civilian college graduates) to be lieutenants (junior grade) in the Dental Corps of the Navy:

Robert W. Didion
Louis M. Ellis

Frederick S. Welham (civilian college graduate) to be a lieutenant in the Dental Corps of the Navy, in lieu of lieutenant commander as previously nominated and confirmed.

The following-named to be ensigns in the Nurse Corps of the Navy:

Marilyn A. Blasio
Willidean Blazier
Eleanor F. Bresnahan
Dolores T. Burns
Mildred C. Cannaday
Clare P. Cooney
Georgia J. Donnelly
Mary V. Doyle
Hope M. Estey
Frieda C. Galipp
Elizabeth A. Geary
Freda M. Hawkins

Violet C. Haydel	Katherine M. Merrill
Etha M. Horngren	Margaret C. Oleyar
Estelle Korol	Mary R. Remski
Rosalind C. Light	Margaret Shaker
Mary L. Lower	Alice L. Spence
Alice T. McCarthy	Frances C. Whitlock
Rose E. McCluskey	Dorothy Zulick

The following-named officers to the grades indicated in the Medical Corps of the Navy:

Commander

William S. Lawler

Lieutenant commanders

Wendell A. Butcher
Hermann J. Lukeman

Lieutenants

Gustave T. Anderson
Charles E. Weber

Lieutenants (junior grade)

Victor G. Benson	Edward Martin, Jr.
Cyril J Honsik	Gerald A. Martin

The following-named officer to the grade indicated in the Medical Service Corps of the Navy:

Lieutenant

George LeR. Baker

The following-named officers to the grades indicated in the Nurse Corps of the Navy:

Lieutenants (junior grade)

Helen E. Crabtree
Pauline R. Uhorczuk

HOUSE OF REPRESENTATIVES

THURSDAY, MARCH 10, 1949

The House met at 12 o'clock noon.

Rev. Walter Dominic Hughes, O. P., S. T. D., Dominican House of Studies, Washington, D. C., offered the following prayer:

Direct by Your inspiration, we beseech You, O Lord, all the actions of these our elected representatives, and in Your tender providence and paternal care govern those who govern us. Sustain them, Heavenly Father, by Your power, so that neither the hostility of enemies nor the indifference of unappreciative allies may thwart their efforts or deny to them ultimate success.

Incarnate wisdom, Son of God, who came into the world to enlighten every man, teach them truth. Educate them in the practical prudence of just judgments and the impracticality of hasty expedience and unworthy compromise. Divine Legislator, who as man was the most faithful executor of the will of God, give these legislators sound judgment and a right conscience. By Your continuing assistance enable them to provide laws that will promote our temporal welfare and remove the obstacles to the spiritual good of all in this great Nation dedicated to her from whom You took Your flesh to dwell among us.

Strengthened by divine power and enlightened with supernal wisdom, may they be moved by the Holy Spirit of Divine Love to forestall selfish interests and accomplish the common good of each and all. May that common good be the motivation of all their deliberations and counsels. May they exercise their authority, not in the petty tyranny of a partisan spirit, but in the spirit of Christian love, knowing that only by their own subjection to God as their Father may they enlist the allegiance of their fellow men as brothers.

Beginning each day and every action before God in prayerful submission, unwavering confidence, and sincerest love, may they and those whom they govern be rewarded with that measure of temporal happiness which will most readily lead them to the unbounded happiness of heaven in the vision and fruition of God, Father, Son, and Holy Spirit, who lives and reigns for ever and ever. Amen.

The Journal of the proceedings of yesterday was read and approved.

EXTENSION OF REMARKS

Mr. HERLONG asked and was given permission to extend his remarks in the RECORD and include the text of the address of President Truman given on the occasion of the conferring upon him of the honorary degree of doctor of humanities at Rollins College, in Winter Park, Fla., on Tuesday last.

Mr. SMATHERS asked and was given permission to extend his remarks in the RECORD and include an article by Grantland Rice.

Mr. HELLER, Mr. PASSMAN, and Mr. BOGGS of Delaware asked and were given permission to extend their remarks in the RECORD.

Mr. RAINS asked and was given permission to extend his remarks in the RECORD and include an editorial.

Mr. LANE asked and was given permission to extend his remarks in the RECORD and include a statement made by himself.

Mr. ANGELL asked and was given permission to revise and extend the remarks he expects to make in the Committee of the Whole today and include certain extraneous matter.

Mr. RICH asked and was given permission to extend his remarks in the RECORD in two instances and to include in one an article from the United States News and World Report, entitled "You, Too, Work for Uncle Sam," and in the other an editorial from the Bristol Courier of Tuesday, March 8, on paying Britain's bills.

Mr. SMITH of Wisconsin asked and was given permission to extend his remarks in the RECORD on House Resolution 143, which he has introduced, and include an article and an editorial.

Mrs. ROGERS of Massachusetts asked and was given permission to extend her remarks in the RECORD and include a résumé prepared by herself regarding veterans' pensions, together with a letter from General Gray regarding veterans' pensions, and a statement from him regarding the discharges other than dishonorable.

Mr. WIGGLESWORTH asked and was given permission to extend his remarks in the RECORD and include a newspaper statement.

Mr. TOWE asked and was given permission to extend his remarks in the RECORD and include an article on socialized medicine.

Mr. YATES asked and was given permission to extend his remarks in the RECORD and include an editorial.

Mr. RODINO asked and was given permission to extend his remarks in the RECORD and include an editorial from the Newark Evening News.

Mr. HART asked and was given permission to extend his remarks in the RECORD and include an article from the New York Times.

GOVERNMENT COMPETITION WITH PRIVATE SHIPYARDS

Mr. MURPHY. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY. Mr. Speaker, many thousands of shipyard employees are in danger of losing their jobs. This unemployment will result if the Maritime Commission is not prevented from involving the Federal Government in the ship-repair business.

A reduction in ship construction and repair work has already compelled the shipbuilding industry to lay off large numbers of men. Therefore, the entrance of the Federal Government into any phase of shipbuilding work at this time would cripple an industry that has proven indispensable to our national security; it would result in unemployment and hardship to workers whose skills are a most important element in our national defense.

The Maritime Commission proposes to use movable military-type drydocks in order to recondition 2,000 laid-up cargo ships grouped into 6 fleets anchored in as many locations.

Shipbuilding experts from the East, West, and Gulf ports have testified before the House Committee on Merchant Marine and Fisheries that this activity of the Maritime Commission would be very injurious to their industry and not at all profitable to the Government. They warned that unemployment would spread throughout the industry as a consequence.

It was pointed out that the Maritime Commission, in formulating their plan, did not take into account the expense of shore installations necessary for such work. These installations are available in private yards where many were built during the war under facilities contracts by the Federal Government.

With funds already expended in our shipyards, it does not seem good judgment to employ additional Government money in the purchase of new equipment to accomplish what the existing private shipyards can do and have done during the war on a scale never imagined by the most imaginative.

My district contains one of the greatest shipping and shipbuilding areas in the country. Large numbers of our people depend directly or indirectly on the Maritime industries for their living. Government competition with private industry such as proposed by the Maritime Commission would have serious economic consequences to the people of the district I represent as well as to those of every other area in the country similarly situated.